

30-PAGE REPORT ON THE CONRAD BLACK TRIAL

★ THE MOGUL'S
FATAL
FLAW P.19

★ **SPECIAL ISSUE** ★

★ THE DEALS
THAT DID
HIM IN P.34 ★

MACLEAN'S



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the scenes of
CONRAD BLACK'S
disastrous
defence
by Mark Steyn**

THE INSIDE STORY

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A WEEK IN THE LIFE OF PERVEZ MUSHARRAF

Things just keep getting worse for the president of Pakistan. Suicide attacks killed eight people last Thursday, the day after Musharraf's troops finally secured control of Islamabad's Red Mosque from militants. On Friday, tens of thousands took to the streets to protest the raid and burn him in effigy. As many as 39 people were arrested Monday, accused of being part of a plot to shoot down his plane. And on Tuesday, yet another bomb killed 15 outside the country's Supreme Court.

Good news

Greenish

Canadians are slowly getting greener. A Statistics Canada survey found close to 10 in 10 households now use compact fluorescent light bulbs and more than four in 10 have programmable thermostats. More than one in five use water-saving shower heads and toilets. And then, speaking of green, there's singer Anne Murray. Murray is campaigning against a proposed wind farm near her cottage on Nova Scotia's Northumberland Strait. Though she says the supports wind power, the "emerging" windfalls will ruin views from her favourite golf course. Some environmentalists advise her to put out of the debate.

Cultivating reform

Alberta's Bert Brown is Senate-bound. Again. Stephen Harper sold a Calgary Stampede crowd that Brown's long-expected return in winning, who once played "Rip It Out or Leave It" on a neighbour's barley field—will begin voting this fall. If the announcement sounds like a ruse (Brown got the nod back in April, after all, he's not), much has happened since then, thanks to Bert Chamber's arrest, who has changed. Last month, the motion scolded a Harper bill limiting their terms, saying the move required a Supreme Court review. Harper, unhappy with Senate's resistance, belied ahead with his own reflagging—installing Brown, who was elected, though not in a vote sanctioned by Parliament. In this case, at least, Harper's old fervour isn't evaporating.

De-Nile

A dead bird in hand used to be a very sexy proposition. They were often early indicators that the

West Nile virus had arrived. The mosquito-borne virus infected almost 1,500 Canadians, and killed 12 of them in 2003. Provinces set up elaborate programs to monitor birds and humans and to eradicate mosquito breeding areas. Since then the number of infections has declined, to 151 last year, and some provinces are scaling back their virus programs. Health officials say the virus hasn't disappeared, it's been put in perspective. That said, mosquitoes are still a bloody nuisance.

Bad news

CN DeRail

The transportation safety board came down hard on CN Rail for a string of errors that caused a derailment in 2005. The accident killed seven people and injured more than 200,000 lbs. Among the errors: two engines in the middle of the exceptionally long train were set up to pull in the wrong direction. Remarkably, the error has been fixed. The derailed train's lead engine fished to a record migration of them

of the engine's ingenuity in the country's quinquennial festive and spaghetti. Priors are expected to jump 30 per cent, part of the cost of going green.

XXXL in the USA

Americans are getting larger by the day. The latest data finds 66 per cent of adults are overweight or obese. Experts blame the country's bulging waistlines on everything from food addiction to videogames. Basketball superstar Shaquille O'Neal has overweighed in, launching a reality TV show in which no overweight children try to eat more pounds. Shaq's goal is to convince Florida politicians to make physical education mandatory in all state schools. That might help, but unless we study often, it's a solution for parents worried about their chubby children: stop driving them to class. Researchers found that while one out of every three American children live within a mile of their school, barely half serve by bike or by foot.

China syndrome

It's a rough week for China's image, with floods and riots at every turn. In the latest entry, it accused the former head of the food and drug agency for accepting bribes that allowed dangerous products onto the market. Meanwhile, the flooding of Dargling Lake in Henan province has caused a massive infestation of rats emerging from the water. An estimated two billion have overrun 30 countries, and destroyed crops. The people of Xagong have a marginally better story: their plague is flies. The district offered a bounty on the pests, paying out the equivalent of US\$125 for 2,000 dead flies. Not bad work if you can get it, and easier to kill than rats. ■

FACE OF THE WEEK



CHIN UP The staff are looking for the odds as his presidential bid unravels, but Ben John McCall suffered on in New Hampshire

Cat-astrophy averted

Fluorid scored a new political education coup after an eighth-century Sabrina, a lion stolen two years ago from the Giza Zoo. The thieves had charged people to have their picture taken and to the mummy, dandied cat. A second police rescue, in Shanghai, is credited to the power of the Internet. A posting caused online lovers to attempt two cruises loaded with more than 500 stolen cats. They were detained for fleeing tables in Guangdong province—a stereotype Chinese restaurant owners worry where can do without.

—science this spring, and huge schools of young sealions. That Ma Nizue is one tough broad—she ought to run a railroad.

It's all fuel

Canadian whens giving Italian gas prices, of a sort. Farmers are increasingly selling their ducks to local processors, who are using it as an ethanol additive to gasoline. While this is friendly to the environment and to farmers' finances, it's creating a dilemma: Italy, which can no longer depend on Canadian exports. Italian pasta makers are suffering a shortage

Eating smarter requires hard choices. Like pepperoni or deluxe.

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Charest, Harper, and free trade with the EU



PAUL WELLS

In the old days when a Quebec premier travelled to Paris, a dozen reporters from Quebec's National Assembly press gallery would tag along, the effably looking forward to another hilarious round of Ask Almost Jovier digressions. If the premier—Lévesque, Parizeau, Bouchard—didn't say something embarrassing about Quebec's economy, his harem surely would. Fun times. But when Jean Charest came to Paris at the end of July, almost nobody came with him and few of the local Canadian press turned up either. Separatism is so deep in the French vocabulary about as anyone who wants to cover and *news*.

And yet Charest brought his own armada of additional sort, to lunch with Nicolas Sarkozy and a later meeting with French prime minister, François Fillon. The Quebec premier is working closely with Ottawa on the European treaty and in a transatlantic, Canada-EU free trade accord.

The payoff would be tremendous: guaranteed free access to a European market of a half billion people and an economy the size of the United States' own, investments, new workplaces for skilled Canadians overseas, new skilled manpower for labour-starved Canadian employers.

Still, it would be a serious negotiation to say the least but set the European negotiation after. When news of the talks got into Canadian newspapers in the spring, I phoned the office of Peter Mendelson, the EU core negotiator for trade. The official at the other end sounded amazed. "Oh yes, that. We have no project resembling Canada-EU free trade. That idea came from the Canadians side." The way he spoke, the guy might have been saying it came from the course book. But EU commissioners are less sanguine on that they like to think. If French citizens think something as good as a, may even trickle down to Brussels. What's the other that Charest

and Stephen Harper are making.

This was, to say the least, hardly the first time Sarkozy and Fillon have heard Canada's pitch. Harper knew that was about a year after a second in labour mobility, credentials recognition and other areas when he came to Paris in June. Nor is France the only country Canada is targeting. Harper also visited Angela Merkel, Germany's chancellor, whose country then held the rotating EU presidency. They announced both sides would carry out feasibility studies toward an accord.

Feasibility studies? No wonder Charest's press plane was empty. Yet there is something very methodical about what Charest and Harper are doing. It's possible to kick-start Canada's seriously flagging separation is a country that is ahead of its peers as a trading nation, they may just pull it off.

What's most striking is the way Quebec and Ottawa are working hand in glove, with very little economic hand wringing, no acrimonious relations like. If anything, Charest



What's most striking is the way Ottawa and Quebec are working hand in glove

is taking the lead. He got called last November by Ray McLennan, whose career as Jean Charest's first trade minister a decade ago did flourish as justice to his almost evangelical and far from lowering global trade barriers. McLennan runs the Canada-Europe Round Table for Business, and he was looking for a champion for his latest pet project. Charest was a minister on the last big free trading government, Brian Mulroney's. He'd do it.

In January, at the World Economic Forum in Davos, Switzerland, Charest banished a few players—Mendelson and Michael Glas, the German trade minister. "Way innocent, and Glas took the idea to his boss, Merkel. Charest wrote to his colleagues in the other provinces, only Alberta's Ed Stelmach, who is starting to have quite enough problems at home, seemed unimpressed."

When Harper and Merkel announced their feasibility studies in early June, Charest thought it was pretty darn good. But an EU official in Ottawa told them the language

had to be weaker than the actual level of interest because Europe is still, officially, praying for success in the Doha global trade round. Flirting too deeply with the Canucks seemed a handy way to jinx Doha. If the global round sails, though, Mendelson has said the EU would like to launch negotiations with developing countries in the fall.

Canada is no longer usually seen as a Third World country, but what the heck. "That's where we saw our chance to offer the Europeans a negotiation with Canada that could be strategic for them," Charest told (the wee cluster of mostly French) reporters during his visit. "It would give them a foothold in North America. It would allow us to engage more with economies we share common values with, to improve labour mobility, to do things that make sense—and that would allow us to compete better with emerging economies."

Meanwhile, Charest's senior adviser who now represents the province in Brussels, met with his colleagues from other Quebec trade delegations and told them to avoid pushing business leaders and politicians in their host countries. To date, about 100 Canadian and European business leaders have signed letters of support for the idea of a transatlantic accord.

Still, as Charest told the little line of reporters, "look-

ing happens in this kind of thing without a night's delay." And he's not wrong. In a week, exchanges between Canadian and French politicians will happen with surprise. The frequency because of the deliberations surrounding the 49th anniversary of Quebec City's founding. And on Canada Day, 2008, Nicolas Sarkozy will take over the rotating European presidency. "At that moment, we hope for a firm decision to begin negotiating on a real accord," Charest said.

If it doesn't work out, all you've wasted is the time it took to read this page. If it does, it will be because of the peculiar relationship between two peculiar men: a prime minister willing to let a Quebec premier make the lead on a global file, and a Quebec premier willing to keep the rest of Canada in mind. Not the crest of separation but a first of integration. ■

ON THE WEB: For more Paul Wells visit his blog at www.macleans.ca/paulwells

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Weekly Newsletter from Cell Block 8



SCOTT FRECHNIK

Proprietor, Publisher & Editor Conrad Maffei Black. Extended welcome to the issue and edition of the new and widely anticipated Cell Block 8 Newsletter! No longer shall this publication limp through

existence as a detestable rag replete with bias, lies and grammatical errors befitting the childhood of a detention hall for mental patients and the halibutted. This week's purchase of all the newsletter's issues (including both Stipples and the ruler) by Black Corp. subscribers is marking new dawn of exciting editorial standards, engorging verbiage and, unfortunately by popular demand, the return of the incoherent Beeth's folly.

As part of the transaction, Black Corp. has secured "non-compete" agreements with Cell Block 4 through 7, and with Hank the Bachelor's military Praxinos will be reversed in specific infrastructure for the benefit of the corporation and an officers—possibly a new comb.

New Headlines

• Conrad M. Black has instructed his legal representation to file suit to pursue relief for the clandestine rumors directed at him by Prison Guard Badge No. 3125, Daniel E. Johnson. It is alleged the defendant's intentional derogatory and defamatory remarks relating to the race, shape and hue of the plaintiff's posterior. The defendant's admissions regarding the need to maintain security of the soap were none too welcome either.

• Black HMO, a wholly-owned subsidiary of Black Corp., is pleased to announce the signing of a long-term contract to manage the prison infirmary. To celebrate, Praxinos are—in the course of the merchant class—on for sale.

Editorial

The superior decrees of the warden, supported by his puritanical, transcendentalist Gesteop of unbridled benches and yoo glazes, echo dully through the corridors not

only of the vile facility but our minds. And nowhere does his no-nonsense authoritarianism and brazen indifference to human need exert a more wretched stain than upon our three-daily forced march to some oval bathroom's notion of satisfactory visuals.

But, the prison commissary, site of every sentence as odious as to witness the immediate intervention of the tribunal in The Hague, reveals the hate of our collective existence. I believe it was the abominable British "Blitz" Reichs who so memorably declared, upon affecting transport of Statue's alleged "Salisbury steak" from plate to

panoply, who declared, "I've believed people lose dignity upon a closer view" (in a similar vein, Reggie "Stretch" Martin was heard to remark, "Gaaa!" Tiam [expletive deleted] isn't got no [expletive deleted] game!)

Art & Leisure

• The bookworm Holist of Highly Decorated People, by Conrad M. Black, continues its lightning charge toward the zenith of the Cell Block 8 bestseller list. It sits now at No. 3, behind only Johnny "Red" Miller's provocative treatise Three Jobs I Remember (that involve the Nazis, and its one-page sequel, More, I Gave The Nazis).

• Henry "Boss" Webster, now incarcerated in the prison canteen for his deep, cutting, biting humor and brutal efficiency with a lockpick, enjoyed the musical works of Queen during Tuesday morning's sport watch.



Commerce

Pursuant to Article VII, Subsection 3 of the Terms of Agreement, the hostile acquisition of the prison canteen by Black Corp. is now complete. Conrad M. Black, majority shareholder and new chairman and chief executive officer of the establishment, invites the broader inmate popula-

In other news, the hostile takeover of the prison canteen by Black Corp. is complete

tion to browse the bounteous selection of meats and staples.

And to browse the bounteous selection of meats and staples.

Lost & Found

Three teeth lost, four south found. Regrettably, no matches.

Three teeth lost, four south found. Regrettably, no matches.

Suite of the Day

We all know our separation from the supply placards of this rocky, the machine, refined rose of a 1939 Luster Head Bikes, the larger watch of a scale/turn on a moped/pole, the comic syle of a roadside drifter caught under the wheels of one's Bentley. But we are undelivered, and our spirits returned, by unexpected delights that, even here, can find us—such as Big Zolt's roaring live 150-lb. booni oddi come as commonly in residences at the same penal facility as David Rader. ■

Sports

The mouth-breathing regains of the Cell Block 8 basketball squad, whose defunct DNA is a tragic case of failure to the modern home tapes, have returned the perpetrator's claim that they are in possession of "game." This cult to stand the exiling of Napoleon

to browse the bounteous selection of meats and staples.

ON THE WEB: For Scott Frechnik's take on the news of the day, visit his blog www.mackblack.com/beckwith

THE PRINCE OF THE BEAUCE

Tory MP Maxime Bernier wowed voters. But can he fix productivity?

BY PHILIPPE GOSIER — For a political acrobat, Maxime Bernier had surprisingly little trouble winning a seat in the House of Commons. In the months before the 2006 federal election, Bernier didn't even have a campaign sign in place. But on election night, he won the largest majority of any MP out of 304 Alberta—capturing 67 per cent of the vote in his riding of a Bessieu. The region, which stretches from Quebec City to Maine, is unlike any other in the province: it's been referred to as "the Japan of Quebec" for the fierce entrepreneurialism that characterizes its residents. It's also among the most wealthy federal ridings in Quebec, despite an overwhelmingly blue-collar base. (A history of the region, published in 2004, was entitled *Les lions d'acier*, or *Iron lions*, or *Tamers of the Beast*.) In returning the riding to the Conservative fold, Bernier not only unseated the Liberal who had represented the area for nearly a decade, he also finished the seat once occupied by his father, Gilles Bernier, a widely popular Tory MP during the Mulroney years and a mainstay nicknamed the "King of the Beauce."

There's little doubt the younger Bernier's lineage boosted his profile. But it's also clear the 44-year-old is infused with the distinctive Beauceron spirit. Prior to his leap into politics, Bernier climbed the rungs in the real-estate and insurance industries, becoming a vice-president at Standard Life, the first waded into public policy while working as an adviser to Quebec's then finance minister, Bernard Landry in the late '90s—though he says he never shared his boss's conservative beliefs. But it was as vice-president of the libertarian Montreal Economic Institute that he cut his chops as a free-market evangelist and staunch opponent of government intervention.

preaching the virtues of private health care and a flat tax on income. Even on the campaign trail in 2006, Bernier wasn't afraid to ruffle social-democratic feathers in Quebec, once suggesting in an interview that "left wing" environmentalists were to blame for high gas prices.

Now an minister of industry, Bernier finds himself in one of the least cozy cabinet positions: an unusual placement for one of the best young Conservative stars in Quebec. The job is typically associated with corporate subsidies and trade-mending slog through federal regulations. But Bernier already managed something of a coup in his early days: he pushed ahead last December with plans to deregulate Canada's local phone industry in spite of objection from the CRTC and well-oiled concerns themselves would lead to higher prices for consumers.

It's that kind of Bush determination that's earned Bernier the respect of his Tory colleagues and seems to have placed the rookie politician on the fast track up Tory cabinet ranks. Earlier this year, Bernier had been pegged as a likely replacement for embattled Steve Ambrose on the environment file and, more recently, he has been cited as a possible

successor to Gordon O'Connor as minister of defense. What's more, given his franco phone roots, Bernier has been touted as well as a possible successor to Stephen Harper. But his future as a leader within the party may hinge on whether he can successfully tackle one of the toughest challenges still facing his department: the ever-widening productivity gap.

**TAX CUTS ARE COMING, HE SAYS:
"THE LOGIC IS SIMPLE. BUSINESS OWNERS NEED CAPITAL TO INVEST."**

The disparity between the productivity of workers in Canada and those of the U.S. is one of the most stubborn issues facing Canadian policymakers. Whereas Canada is said to work about the same number of hours as their American counterparts, their population nearly 30 per cent less wealthy. Most worrisome is the fact that the gap has mostly widened since 2000, leading some of the country's leading voices on economic policy to sound the alarm. Last month, David Dodge, the governor of the Bank of Canada, said the country's persistent failure to improve on productivity "has been very disappointing." Scott Poiré, chairman of the Canadian Chamber of Commerce, concurred,

saiding, "our own government is hurting our ability to compete globally."

But while Bernier's approach may address the body crying of concerns about the business community (lower taxes, deregulation, and the free movement of goods and labour), some experts say it doesn't go far enough. For instance, a recent essay by Roger Martin, dean of the Rotman School of Management, and Gordon Nixon, president and CEO of the Royal Bank of Canada, argues for a sharp increase in personal income and consumption taxes, and the slashing of corporate tax rates. They point to Scandinavian countries as an example: as a group, their tax take is nearly 14 times that of Canada, but business and investments are taxed at half the Canadian rate. According to Martin and Nixon, high taxes impede corporations from "investing, innovating and creating high-paying jobs." As the scholars have figured out, they write, "the way to raise corporate activity is to tax as personally the earnings that rich people collect from the ownership of corporations."

But as Jim Mahoney, the executive director of the Institute for Competitive and Prosperity, notes, "Seven of the top policy ideas that most economists agree with are for terrible policies." Nobody is going to win an election in Canada—not to mention a majority government—with a platform calling for extreme business measures. Endlessly will aware of this fact, Bernier and Finance Minister Jim Flaherty are exploring more palatable solutions, too. They've openly welcomed the creation of a five-member expert panel charged with reviewing Canada's competition and investment laws, which is expected to report back to the government by June 2008. And Bernier says he's also working with the provinces to remove the barriers that prevent professionals from migrating and moving from working in other provinces without going through extra training. Ultimately, though, Bernier says there's nothing like putting money in people's pockets, and so the core cutting course is the secret.

"Competitiveness and productivity are core concepts," he says, "but the first restraint that it's the fiscal and economic environment that makes a business productive or not." ■

That responsibility now falls on Bernier's shoulders. In a recent interview with *Maclean's*, Bernier defended the productivity gap as a priority within his ministry and said an aggressive corporate and personal-cutting agenda will form the basis of the government's approach to the problem. "The government's

approach is simple," he said. "Canadian business owners need money and capital if they want to invest in new machinery or state of the art technology in order to improve their productivity." At the same time, Bernier expects something of a soft correction to take place thanks to the high Canadian dollar. Given that much of the machinery and equipment used in the manufacturing process comes from outside the country, he believes a strong dollar can help minimize the cost of acquiring an specialized technology.

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NOT THE MOST RELIABLE SOURCE

Iran just launched a 24-hour news channel and it's pretty obvious the government is tuning in

BY MICHAEL PERKINS • Facing growing international isolation and documentation on its own citizens, the Iranian government has begun a media campaign to bolster its image abroad—and stir dissent at home. The pay reform (Iran's *Mashhad* newspaper was shut on July 1, and the Iranian Labour News Agency, which has been critical of the government, was closed on July 15). The two banned outlets feature the list of more than 100 no-war organizations that have been selected since 2000 (Some have already died, either under difficult circumstances). Iran's culture minister, Hossein Shariatmadari, justified the crackdown by claiming, "There are some signs of a creeping coup in the press." And Ali Akbar Jafarabadi, President Mahmoud Ahmadinejad's press officer, said, "The long as some publications are on the agenda of power and policy-making groups, either they should be monitored."

But even as Iranian authorities increasingly become more critical of domestic media, they have created an international English-language news network that broadcasts 24 hours a day. Press TV, launched last week, is based in Tehran but has journalists around the world. In London correspondent Youssef Baluchi, who contributed to *Iranian* after being captured by the Taliban in 2001. She now provides the *Shahid* (Witness) channel, which worked responsible for the British school massacre, as a martyr.

Press TV's self-described goal is to break the "stranglehold of Western media." At a ceremony to mark the network's launch, Ahmadinejad used the channel to demand "hands the oppressed nations of the world be not make up news in their favour." But at Press TV say they have a different perspective and that no government officials tell them what to say or do. However, Hossein Shariatmadari, a government spokesman, said the news channel is necessary to con-



PRESS TV is based in Tehran, but its correspondents are scattered all over the world.

front the psychological war waged by the Western media. Press TV's website closely follows the government's line and criticism of the regime is largely absent.

Recent government support for rioting has led to rioting and attacks on government officials, for example, but coverage on the website doesn't mention this. It does report Ahmadinejad's claim that rioting will

THE NETWORK'S ANALYSIS IS MARRED BY CONSPIRACY THEORIES AND ANTI-WESTERN PARANOIA

make Iran "invulnerable," and repeats the assertions of ministers of official websites that occasional trips won't be significantly affected. The network's analysis is also marred by conspiracy theories and anti-Western paranoia. An article about the Israeli-Palestinian conflict, for example, in London and Chicago suggests they were part of an Iranian Israeli plot to frame the "Musharraf" regime.

In the first act of this play, they stage Musharraf by laughing Rabbid and then they orchestrate a violent attack on an airport, which has nothing to do with Rabbid or the ongoing war, claiming Musharraf is not to arrest Rabbid's neighborhood and the Iraq war," writes Hossein Shariatmadari on Press TV's website.

Most of Press TV's news reports are factually accurate. Even the appointment of William H. Clinton as the new UNCTAD commissioner is correct. But errors, possibly intentional, are also published. One way on the website, for example, claims that the

Lebanese government is trying to convert the Nahr al-Bared Palestinian refugee camp into an American military base, but provides no evidence to back up the allegation.

Only five days after launching, Press TV invited me to take part in a scheduled panel discussion about journalism in the Middle East. I argued that the biggest challenge facing journalists in the region is a lack of freedom and credit, among other examples, the case of Zahra Kazemi, the Canadian photographer who was raped, tortured and

murdered by Iranian officials who she was arrested for taking photographs outside the Evin prison in Tehran.

In his words, the host and chief press officer, Shihab Mansouri, did not interrupt or allow me to speak. He called my comments "offensive" and "insulting" and said I was given five minutes to say what I wanted. Press TV did not permit the interview to be recorded, confirmed by journalists in Israel.

Press TV may find a receptive audience among those ready to hear the worst about the West. But Israelis, especially the young and the educated, most of whom are the best informed and most skeptical consumers and analysts of news in the world. In such cases, official bias is often in the hands of those who can afford them, and Persian language blogs—many explicitly critical of the government—number in the tens of thousands. Most Israelis will watch and read news organizations that are not bent over. It is difficult to believe Press TV will do so.



IRAQ: BIG BADGERS IN BASRA ARE NOT BRITISH
Residents in the port city of Basra are living in fear of an invasion of giant badgers that are said to be eating human remains off the streets. A local television channel has been unable to convince local troops that "no-badger" has been endemic to the region since the 1960s. Although not normally fierce, the badgers roaming on main boulevards have spawned rumors that British occupying forces have dispatched the animals to terrorize Basra. The British deny it.

Scarface gets some physiotherapy

BY STANISLAV TAYLOR • When Tony Montana, the fictional Cuban gangster played by Al Pacino in the 1983 movie *Scarface*, dove into death from his second-story balcony amid a spray of gunfire, real-life mobster Walter Schemm probably wasn't chafing for a similar fate. But the Naples gangster, of the infamous Casale di Stabia, was engaged with Montreal's parish neo-classical mansion that he sold his wife to create a replica of the villa. Although Schemm was sentenced to life in his life, he was spared on parole charges while trying to escape over the coast's garden wall in 1999.

New Naples authorities plan to convert the \$5 million mansion, complete with marble columns, a double staircase and view of the surrounding garden and pool, into a physiotherapy centre for the disabled. It's the latest in a string of property seizures meant to disempower the Mafia and, frankly, risk thousands in a life. "The best way for us to fight the Mafia was to offer the community life in the Mafia's symbols of power and make them more the community," said Enrico Iacono, an official in the regional authority of Campania. Other area properties that have been converted include a Medici villa that was turned into a youth centre, and a mansion once owned by the Zuccardi family that now serves as a police station.

After Schemm's mansion was seized, his



ONE MOBSTER liked the movie so much he built the mansion

members piled the place off marble, granite furniture and bathroom tiles before setting curtains on fire. "The villa was a masterpiece," he said. "But we definitely wanted to keep the moving structure in place for its symbolic value." Ironically, Schemm may achieve silver-screen fame of his own. The bestselling book *Gomorra*, about the activities of the Camorra—the region's Mafia—reportedly being made into a movie.

The only real church in town?



RENEDEDU: The others have been deemed to have 'defects'

BY PATRICIA TREMBLE • When Pope Benedict XVI was elected two years ago, critics worried about how his strict doctrinal view of the Roman Catholic Church would affect religious policy. This month the Pope raised alarm bells by releasing two conservative documents four days apart. In the first, he laid out restrictions on the last Latin mass, which was regular, reducing the formal Vatican Council in the 1960s with a modernized liturgy called the "new missal." Through its long history, the "old missal" was a "perfectly good," it said, because a Good Friday prayer asking for the conversion of the Jews used the "blasphemy of the people." Jewish leaders expressed worry that the Pope, in his desire, dismissed fear of the rise as "unfounded."

On July 16, he was the first of other Christian faiths to voice their concerns when the Pope declared them as "unfounded." In a text condemning the "defects," the Vatican said that "it is difficult to see how the 'rite of the Church' could possibly be understood as 'offensive' and 'blasphemous' and that the Catholic Church was 'the one true Church of Christ.' The statement, which omitted many of Benedict's harsher remarks, left the World Alliance of Reformed Churches, a coalition of Protestant faiths, to react. "It makes us question whether we are indeed praying together for Christian unity."

While the Church appears to be cautiously a sign of other religions, it's not alone getting groups when it falls again. Just before the new seven words of the world was announced, the Vatican's Archbishop Mauro Piacenza, head of the pontifical council for culture, said that a new "surprising, inexplicable, unexpected" that Christ can be seen as Michelangelo's masterpiece in the Sistine Chapel didn't make it short list. Benedict's Church, the Benedictine order, seized as a wonder, was deemed too holy.

Japan tries to rewrite history

BY NATALIE ISENBERG • Locals called it *tsunamis*, "tsunami" or "tsunami"—the wall of perfect American troops bled at Japanese forces when they invaded the island of Okinawa on April 1, 1945. More than 200,000 people died in the ensuing 82-day battle, among them civilians ordered by Japanese soldiers to blow themselves up with hand grenades rather than fall into enemy hands. But this part of the story makes sense, based on its victims. Last March, Japan's education ministry (MEXT) called for changes to high school textbooks that would describe people as having been "driven" rather than "forced" to take their own lives, and because the army's role by saying soldiers merely provided grenades, or removing references to the army altogether.

Okinawa was the only Second World War battle of the Pacific fought on Japanese soil, and the island was under U.S. occupation until 1972. "It has been a site of repressed



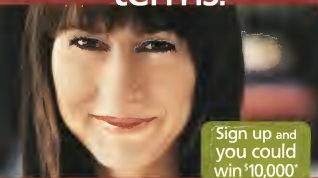
ARE: Only paying for service to past injustices

memory and identity," says Mikoyuki Kim, a professor at the Hiroshima University. Residents see themselves as having borne the brunt of the Japanese defense against Allied forces, and are very unhappy with the current effort to rewrite the past.

Groups estimated 100,000 U.S. military, and delivered a resolution last month asking MEXT to retract the changes, "as the truth of Okinawa will be handed down correctly and a tragic war will never happen again."

The controversy is seen as reflecting Prime Minister Shinzo Abe's nationalist goal, recalling his desire to Japanese public for the "correctness" of the war. While textbook changes are required by law and level bureaucrats and tend to have little input from politicians, last year Abe's government asked Japan's education law to include a law statement recognizing the war. And MEXT's PM said "heavy issues" as recognizing the war, paying for service to participants only when politically necessary. "The past is something more than a dogmatic bargaining chip," he says. "It is about unhealed wounds. Unless Abe comes to grips with such memories, he will keep on muzzling the truth."

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JUSTICE

★ SPECIAL REPORT: THE BLACK TRIAL ★

Conrad Black: The inside story of a titan's fall

BY GUYTON MARCH • There are no more indignities that can be heaped upon the impoverished state of Conrad Mallory Black. Already labeled a hypocrite, a self-delusional fantasist, a windbag, charlatan and a bore, the former chairman, chief executive and architect of the crumbled Hollinger media empire has now been branded with the most devastating mark of all—convicted felon.

Never mind that 12 of the 16 charges against the Hollinger insiders collapsed in court. Forget the fact that the jury rejected the central allegation in the case—that Hollinger operated an elaborate scheme to enrich insiders at the expense of public shareholders. And don't dwell on the fact that Black was acquitted of the most heinous accusation—that he abused his Hollinger expense account to the tune of hundreds of thousands of dollars, to finance expensive parties, gifts and vacations abroad. None of that matters now.

As the prosecution knew all too well, they

★
TABLE OF CONTENTS
The mogul's fatal flaw 19
Mark Steyn on the battle behind the scenes 24
Dissecting the deals that did him in 34
The man beyond the myth 36
The forgotten felons 39
A heavy toll taken, in pictures 40
The next fight begins 42
White-collar prison: the ugly truth 44
How justice is done in America 46
★

needed a conviction on only one criminal count to exact the retribution they sought. They got that for good measure. After 11 days of grueling deliberations, poring over thousands of pages of documents and parsing the testimony of 19 witnesses, a jury of nine women and three men—lawyers, truck drivers and office clerks—acquainted Black of three counts of fraud related to payments, so-called "non-competes," collected illegally from two separate buyers of Hollinger newspapers, and one Hollinger subsidiary. Black's co-accused, vice president Peter Ackman and Jack Southby, as well as corporate counsel Mark Epstein, were found guilty on the same counts. Total proceeds of the illegal transfers—roughly \$167 million. Black was convicted on the additional charge of obstructing justice, related to his improper removal of 13 boxes of documents from his Toronto office during the criminal investigation, in the early evening of May 10, 2005.

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In the final analysis, Black is guilty of paid digging, but pay through his private bank in the late 1990s and of one dishonest office relocation. It wasn't the distasteful master plan prosecutors alleged, nor by a long shot that hit in the eyes of U.S. justice. It was a crime nonetheless, one that carries a possible more harsh than most: *murder in Canada*.

In the aftermath of the verdict, Black will find the charge to keep fighting, and to build political endorsement on appeal. There are many roads yet to be fought—motions and appeals, and petitions for leniency. But Black's place in the U.S. federal prison system overall had ended. The only thing left to determine is how long he will serve behind bars among drug lords and thugs—three to five years as his lawyers hope, or upwards of 15 years as the prosecution will request from Judge Amy B. Eve.

That question will be resolved on Nov. 30. But either way lingers forever, and this one more of all: how could he let it happen?

ALMOST FOUR YEARS AGO, when Black was still CEO and chairman of his newspaper empire and the chairholder springing against him would a minor conspiracy, most friends could a dare prediction.

Hal Jackson had been a confidante to Black for more than 20 years. Both charter members of Canada's social and political elite, they were kindred conservatives and cultural libertarians who shared deep common in military history. But in the summer of 2003, Jackson broke from and gave a blunt and unambiguous assessment of his old friend's final flaw. And he did it in public.

"I just think he's a death wish," Jackson said in an interview. "He's just always trying to push the envelope... 'What can I get away with?' He said that Black had managed the biggest right turns in business for decades because of his remarkable intelligence and charm, his energy, his confidence 'somewhere or later today in you can pull things off a couple of times, but they people start to get realistic about you... and then the charisma doesn't work anymore.'"

Black was furious at what he saw as a betrayal by a friend. But in the face that followed, the heart of Jackson's words got lost. He was not saying that Conrad Black's crimes and arguments were right, he was saying that they were going to lose. It was a lament from someone who built power, frustrated watching an old friend—a student of history with a brilliant eye for business—commonly underestimating the strength of the enemies while overestimating his own. Like a gambler who only sees the size of the pot, but can't evolve as the cards in his hand. Black characteristically exposed himself to undue risk. And Jackson

said that this time, the consequences would be disastrous.

Black didn't hear that warning. Instead, he carried on as always, fighting his way. He won everything he'd built was in flames. The first sparks had appeared quietly in 2001, when New York executives fired Twentieth Century. Then Black a sharply wounded lawyer began to see about his compensation. Twentieth is a form of unbridled governance pariahs and these sorts of demands were



HAL JACKMAN ABOVE: HE'D tried to win in court that Black's (right) would prevail

becoming commonplace, as powerful men on a tight to rule in corporate boardrooms seen as one a finish and gently.

Normally, when a public company CEO is attacked by shareholders, a relatively simple script is followed: acknowledge the core claims, make a brief, single statement of correction, and spell out a detailed plan for winning back the confidence of the market and getting the share price into an upward trajectory. But Black opted for his customary "no retreat, no surrender" approach. He hit back with a letter stating Twentieth for its "highness" and "self-pitying" complaints.

When challenged, he denied his opponents as "twists" and "hoax"—a particularly ill-advised comparison in the wake of 9/11. It wouldn't be the last time Black's words would backfire. He dismissed corporate governance reformers as "fals"—not making that false can be deadly accurate matters. Words have been short-lived life in Salem, Mass., around 1692. But when the local authorities decided to shut Glen Cove by plugging holes on top of hills, it didn't do much good to point out as well just a passing fire.

The forces against Black were more powerful and determined than he real-

ized, and soon even the staunch loyalists he counted on as his band of diehards would turn against him. Black sought to quell the shareholder complaints by appointing a special committee to investigate and make recommendations. But within months, the special committee had become another soldier in twisted upholding of improperly designed payments, already moved to keep him and a company that seemed to be his a private life. It brought in Richard Brinkley, a tough talk-



CONRAD BLACK ABOVE: HE'D tried to win in court that Black's (right) would prevail

ing, politically connected former head of the SEC, to deliver sharp news to Hallinger's inner workings. Soon, meetings of Black's hand-picked board devolved into vicious acrimony, with threats lobbed from all sides.

Up to this point, the board's majority dropped into the press. Black was seated in the center of the board of directors set about dismantling what remained of Hallinger's newspaper holdings. Black was out of the safe process, but remained as a confidant and advisor. The day after he was forced to resign as CEO, with the board's vote in full force,

he showed up at a Toronto bookstore and brought down his money while he was managing for his new book. "I made 50 million bucks yesterday," he boasted. "There's a financial world around me." It was another example of Black's tendency to talk himself into trouble. For a man of such obvious intellect, he often displayed a touch lack of self-awareness, and the consequences were frequently dire.

Soon he was dumped as chairman, and

IN CHICAGO, Black couldn't resist the temptation to reach and denounce his opponents.



BLACK REFUSED TO RETREAT OR SURRENDER. HE FOUGHT FIRE WITH FIRE, UNTIL EVERYTHING HE'D BUILT WAS IN FLAMES.

Black went on the offensive, trying to undermine the dastardly board and to strike his own deal for the sale of the company's crown jewel, London's *Daily Telegraph*. He got word back, and in February 2004, in a Delaware courtroom, Black complained that he was simply trying to assert his rights as controlling shareholder, and that he'd been "illegally deprived and prejudiced as an shareholder." But he hadn't seen anything yet. The judge all but called him a liar, concluded that he had "premeditated and seriously" breached his fiduciary duty, and stripped him of all his power over Hallinger.

That summer, the toxic news of the intervention made the smoke of Black's unimpeachable credit into sharp fumes. On Aug. 31, Brinkley released a memo with accusations on the controversy, which branded the company a "cor-

porate monopoly." Over 100 pages in length, and loaded with scathing notes, the report painted Black as a thoroughly corrupt organization. "Behind a concrete screen of bribery," Black and [David] Butler made a their business to last their pockets at the expense of Hallinger almost every day, in almost every way they could devise."

It was not written in the dry legal prose of most corporate reports, but more like a

various media and in debasing in his own fall. In one such tirade, he complained that the while his own money allegations had been turned him into a "mad" tiger, and he himself that people who had once eagerly accepted his hospitality now shunned him. But the greatest betrayal was yet to come.

When David Butler agreed to resign publicly in final in September 2005, and to co-operate with U.S. authorities in their ongoing criminal investigations, Black lost far more than a friend and business partner. Butler represented a gaping breach in the wall of infidelity that protected Hallinger's misdeeds from prosecution. Long-maintained criminal charges now seemed inevitable, and sure enough, they were.

In November, the U.S. Department of Justice announced that Black and three top associates, as well as Black's private holding company Blackcoast, were charged with more than a dozen criminal offenses, including fraud and wire fraud, racketeering, and in Black's case, obstruction of justice. The government had, in essence, and Black was the kingpin of a criminal organization. What had become legend for his business legacy and his personal future was now a fight for his freedom.

The press, meanwhile, gleefully shredded what was left of Black's personal reputation. Countless reaching editorially were just the beginning. The *Globe and Mail* ran a story, seemingly about public honesty, in which a reporter stands before the gates of the wall of Black's Toronto home and asked to enter if he would call the owner to return. "When the reporter never received a call, it was presented as yet more evidence of Black's moral corruption," Toronto's *Star* magazine published a piece of trash that suggested Black upon his arrival in hell (they later apologized).

But nothing captures the sense of chaos quite as fully as the words of the late British author Tom Stoker's books, *Lord and Lady Black*, *Darkness on the Edge*. Aside from Richard and largely unnamed reshaping of Barbara Atwood's alleged sexual history, most of its pages are given over to a masterful psychodrama, advancing the way that Black was an unrelenting and violent maniac from the start. He was a boy, and that his greatest life's collection from those named dares in his character Black is called a "self-declared fanatic" who endured a "lovelorn" childhood with his "vengeful," alcohol-abusing father and an "ineffectual" mother. It was a brutal character assassination, and when Black set for libel he threatened dozens of suits, accusations and apparent fabrications. Luckily for Stoker, none of the jury decided Black a criminal, libel claims became over. He has no reputation left to protect.

Still, the public onslaught never failed to



CONRAD BLACK ABOVE: HE'D tried to win in court that Black's (right) would prevail

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spoke Black's fury. He accused Breedon and others of orchestrating "a massive attack job from A to Z," and he asked against the "suspect machine" that added all Halliwell's pieces by pieces, and failed to create any value for shareholders. But all the verbal fireworks merely set the stage and heightened the anticipation for the closing confrontation in Chicago, in the 12th-floor courtroom of Judge Amy St. Eve.

WITNES WERE TELLING the last March when assistant U.S. attorney Jeffrey Gomer stood before the jury box and shuffled thousands of pages of corporate documents and text messages into a scenario as simple as a Hollywood heist film. At the first talking New York

collect two-line barcodes from the side of newspapers and to slip it by the board. And when caught, tried to cover it up.

The prosecution case was hardly simple. There were gaps in the paper trail, glaring contradictions in the testimony, and the star witness was an admitted liar. Still, Black couldn't ignore the temptation to publicly denounce his opponents, despite his lawyers' repeated admonitions against it. At one point, he was quoted comparing the prosecution to Nazis and saying the case hung "around their necks like a noose."

Black didn't know it, but he was digging himself deeper again. The crack about the Nazis cut across members of the prosecution team



native captured it, Conrad Black was not just a bad CEO of an underperforming public company. He was a miserly, bombastic or arrogant, and/or to account

THE PROSECUTION CASE FELL APART. BUT BLACK IS GOING TO PRISON NONETHELESS.

wasn't just his unwillingness. They were cartoonish, very much then. "This is sitting in a room with four men who stole \$160 million," Gomer said. "We all know what street crime looks like—a man looks you down and takes your money. This is what crime looks like in corporate life."

Over four months, as winter gave way to spring and finally to an oppressive July heat wave, the theme remained the same. The more complex the case was, the more money got. Black's explanations were "lies." And everything about the way he operated and Halliwell was a "scheme" designed to let the boss live like a billionaire, on a millionaire's salary. Members of the Halliwell special committee, the board of directors, commentators, outside lawyers, and, of course, Black, all straggled to the stand and pointed the finger squarely at Black. He doesn't get a pass to



the very bone. All four of the young law firms who opposed Conrad Black are Jewish, and all paid a high personal price for the case—all night stretches at the office, weeks on the road, living out of a suitcase, missing family, ball games, birthday dinners, life's most precious relationships frayed, some beyond repair. And now to have this nagging sense of wealth and privilege comparing theirs to jobless Chicago officers—a worse case to swallow. "Let's just ask this—whose necks were more likely to be running on the gas, and whose ancestors were more likely to have breathed it in?" one person close to the prosecution team growled, still fuming from the attack weeks later. Black would get out as owner of compassion or leniency from them. They would rail him as hard as they possibly could, and years from now the memory of it will make them tremble.

ON THE DAY the jury rendered its verdict, Conrad Black returned to the courtroom, possibly dressed as always, in a tan suit, light blue shirt, and dark blue tie. He wore an unusual, glowing red blouse and sat on the front row next to Black's daughter Alexis. As Judge St. Eve read the jury's verdict, there was not a sound in the room apart from her clear, youthful Sally Field voice. The word "guilty" came four times for Black, and three times for each of his co-defendants.

Black's expression didn't budge—he sat with his features locked in that familiar, personable glare. Everyone in the room tried to get used to the words "Conrad Black, convicted felon." The prosecution team struggled against the impulse to smile. Their case had fallen apart. They hadn't exactly won. But Conrad Black lost. And in practical terms that is all that matters.

Black put on a brave face, telling reporters that he will be vindicated on appeal. That confidence seems unfounded. It would take an act of God to keep Conrad Black out of

BARBARA AMEL (left) was a constant focus for the media throughout the trial, but on the day of the verdict, she gave no reaction.



prison now. But there, regardless of precisely what Black is counting on.

Before the trial began, I asked the embattled lord what he would do if he were acquitted. He refused to consider any other possibility. "Breedon orchestrated this assault and gambled that they could knock me out by extreme financial strangulation, deflection, and confoundational outrage. They failed on all counts," he wrote in an e-mail. "If you will pardon a line from the Scriptures 'God of vengeance, show Thyself!' He will."

The Old Testament God of Vengeance is everywhere in the story of Conrad Black. New his work is done, and Black must direct his prayers in a new direction—to the New Testament God of Mercy. ■

—with Colin Campbell and John Deen

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THE HUMAN DRAMA THE JURY DIDN'T SEE

One lawyer called the trial 'show business,' but backstage, Black's defence team was at odds, alienating the jury and blowing its one shot at winning the case



MARK STEYN

Just before the cast went to the jury, Conrad Black's two lead attorneys sent him a demand for an additional million bucks each. No messing around with billable hours and 75-minute intermissions and \$2,500 for photo copying. Just a nice round seven-figure sum by way of supplementary remuneration.

A day or two before closing arguments to the 12 men and women who'll decide your fate is no time to gush a quarrel with your lawyers. Or, at any rate, your number quarrel in add to those you're already barking, and they're howling with each other, and the Ameri-can lawyer's associates are having with the Canadian lawyer, and the Canadian lawyer is having with his own associates, and your wife is having with all of them. So Conrad paid up. After all, what's another seven-figure sum here or there? In the Hollinger racket, it's always change on the wheel of things: what's left of Lord Black's former company has shucked a nine-figure sum to its legal "advisors," and, back in the good old days when Richard Bredon was penning lurid reports on Hollinger's "corporate kleptocracy," the fallen media titan was accused of looting the best part of half a 30-figure sum. In the end, after four years, he was found guilty of stealing \$2.9 million—or about what

he spent on lawyers this last month, and a fraction of what the taxpayers of the United States have paid up in order to read him.

Like most non-lawyers, I always figured there must be a reason why those guys come round huge fees. Granted, if you're up against the resources of the state, you certainly need someone to fillet the hundreds of thousands of intensions and foibles and find the esoteric phrase or the mitigating circumstance. And it helps to have someone who can bring up the precedents of *Rogers v. Janice* in 1917—that by the time it all winds up in court, there's some law in it so that none the less, when it was over, the Tories, an old Windy City lawyer representing Hollinger money man Jack Boudreau, shrugged, "It's show business," winking for all the world like Richard Gere in the movie *Chicago* about so give 'em the old rattle dance. At the close of the trial, Judge Amyic, five gave a little speech saying that rarely had she had the opportunity to listen to lawyers of such brilliance on all sides. In a moment Bob Fosse and the rest of *Chicago*'s creators would have appreciated, the U.S. marshalling across the aisle from me mouthed along with her allegedly heartfelt in person you pause read for word.

Also, in the real Chicago, the meeting was less than dazzling. Lord Black of Canada has now a converted friar. And those of us who believe he's innocent of any crime have to

STEVE CARROLL / REUTERS



"either" for our back-pedigree-yet. That seems appropriate. For Conrad it was certainly a kind of death, without losing the Chicago Star Times or his modest pay. After he was forced out as chairman of Hollinger Inc. (Hollinger International's Canadian parent), he never set foot in the place again. He never came back. Had he been coming by the Wang-Eddie bar afterwards, the chauffeur would have known, without being licensed, to find a reason that excused Toronto Street.

And then one day just before the Victoria Day weekend he got a call from his son-in-law, Brian Black. The son-in-law at Hollinger Inc. had decided to even him and Joan and the rest of the old gang, and with just a week to go he'd have packed up. Yet, there was paperwork relating to the disputed transactions, none of which every sane and party

of his life, of memorabilia going back to his Douglasdale. There was no reason to obscure justice in any hypothetical "official record" of "He was not losing the thing either." He was the eight-year old boy who had achieved his dream, and lost it.

You can't understand that day's events by looking at the stand his loyal secretary, or by producing the phone and email logs of his Washington happenings to demonstrate that he was never informed of anyone in Toronto that the SEC had put in a document request. It's not enough to paint out that, though the prosecution portrayed the last as occurring after dark when the building was closed, it was, in fact, 3:30 in the afternoon and the parking lot full. What happened that afternoon can only be explained by understanding what was in Conrad Black's head. The circumstances.

Well, why back in March, at the beginning of the trial, the defense told me he'd been seriously shocked at the top of the heap crest of the ship. A No. 1 "dynasty man" types because these slickers didn't need the best asset and so didn't put in any real effort. Dropping to the next tier would give him huge discounts paid to get their knuckles around. Hmm. As it happened, the two Edlins did turn out to be a decision as to at least in the sense that, if they can't eye over at their table on almost any mid-afternoon in the last month or so, at least one was asleep. By the day's end, the other half was asleep, though evidently they came round at least long enough for each to send the client that last-minute invoice for an extra couple mil.

options arrive dramatically. Brenda S. Sullivan, for example, wanted a \$25-million down payment to take the initial one. Whether or not he would have been in for Conrad, the trial from the apartment would have been a pretty handy towards the cover charge. Why did the FBI see the dough? Because, as the U.S. Attorney argued at the trial, Black's purchase of the apartment from Hollinger was a theft from the company's shareholders. In case you're keeping score, the jury in Chicago found him not guilty on all charges relating to the apartment transaction. Yet the U.S. government is holding on to the money.

Why? Just not. Because they can. And because the presumption of innocence which lies at the heart of English law is so enshrined in modern U.S. jurisprudence that it seems entirely natural for the government to seek the proceeds of a "crime" before it's proved you've committed one. Just to run the numbers, the former SEC chairman Richard Fuld, in his investigation of Hollinger International, claimed that Black's "corporate kleptocracy" had stolen \$400 million from the company. On the eve of that trial and trial, the government was alleging a theft of \$84 million. By the time the trial began, they were down to \$60 million—or 15 per cent of what the Black gang was originally accused of stealing. And at the end of the trial the jury found Conrad guilty of stealing \$2.9 million—or less than one percent of what he'd been accused. But Black needed many more still. He had to stay in the game—and every time he had to access any of his assets he found the authorities had blocked his path.

So, when the indictment was filed and he required someone just to go to Chicago and represent him in court, the women's lot of roles. The mobility of a Canadian barrister appearing in as Florida case once because Eddie Grossman was the only guy willing to go on a flight to O'Hare when the big show at Washington and New York declined to do so. And by the time Conrad was back enough to be a little picky in his representation, the old professional conscience meant that no Johnny come lately was willing to step in and supplant Grossman or Gosselin.

Both men were great lawyers in their day. What wasn't clear was when their day was the spring of 2007. Gosselin went to work as an attorney, upright square, self-improvement his way through everything is a carefully managed inability to discern the serious insubstantialities. Among the ways he makes quite a few himself. For me, the first alarm bell rang during his opening statement—that year passed for his defense of a client, which Barbara Amiel described to me

To his credit, Greenspan destroyed Radler's credibility so thoroughly that the government disowned its star witness in its closing arguments



as "backing into every point," often to complete a comprehensive study, but something that should have been easy to pull off, a visual punch party. Gosselin had deployed many times before to illustrate that there are two sides to every story. He holds up his palm to the jury and says "Can you see my hand?" When accused, he says, "No you can't," and flips it around to show the back. "Now you can see my hand." But even this argument was garbled so that in effect was diminished: it wasn't an encouraging sign to see a lawyer bungle the stuff he's done a gazillion times before. And, for anyone paying attention, you couldn't help noticing that, if there were two sides to every story, Gosselin seemed to be in no hurry to provide the 30 to the government's version of events.

As for Eddie Grossman, his side of the story seemed to be mostly about him. If you were following the case in the Canadian media, you'd be forgiven for thinking the local angle was the lawyer rather than the client. "How is Eddie Grossman doing?"

demanding Paula Todd on CTV's The Weekend Update. Eddie Grossman's doing a decent exclusive interview a day. He is needed, not as an agent used to have who was very hard to get a hold of, I'd call him up and he is not really would say, "Oh, he's with Vanity Fair right now." And I'd enquire hopefully as to which of his clients the perfumed glossy had chosen to feature, and she'd say, "Oh, no. It's not for any clients. Vanity Fair is doing a profile of him—the king of a new breed of super agents who are changing the way the industry does business."

"Oh, really?" I'd say. "Well, if you could have had me call me some way."

"I'd try. But he's doing a photo shoot for Peris Match on Monday, and then on Tuesday he's got to go." Likewise, morning, noon and night, the Black media machine could find Eddie Grossman appearing on his American court dates, his Niagara Falls childhood on the Ontario-New York border, his admission for Charles Dumas, his involvement for Toronto, even his friendship for

Even when his lawyers undermined the prosecution's witnesses, they seemed to do nothing to de-undermine Black



THE ANTI-CONRAD SQUAD: from left Christopher Browne at Tesco, Emma Conway, former SEC chairman Richard Fuld, U.S. prosecutor Patrick Fitzgerald

already had in triplicate. But there were also a lot of personal effects. And when Joan told him a security guard had pressed her from taking the stuff out, even though the new chief executive of Hollinger Inc. had given her permission, Conrad Black drove down to 10 Toronto Street for the first and last time since his removal as chairman. Did he know that what he was doing was in breach of his successors' "document retention policy"? Probably. Did he understand it was in breach of an Ontario court order? If he'd stopped for a moment, he might have remembered that. But neither of these is attributable to a U.S. "obstruction of justice" case. All that counts are official U.S. proceedings, such as the SEC investigations and any likely criminal case. And at that afternoon nothing could have been further from Conrad Black's mind than he was thinking of the last quarter century

ending in this sprawling case over-ridden by anything but the testimony of the defendant himself. One can have different views on the non-complete payments, but the obstruction charge—which would lead Black to jail for the rest of his life—is a prima facie misrepresentation of justice.

HOW DID IT HAPPEN? At some point in the last few months, it became clear that the defendant was facing a well-defined double jeopardy. He had to survive not just the prosecution but his own defense team. Hey, you could, tell it to the punk who holds up the liquor store and has to make do with a rather dispiriting concept from the public defender's office. Very true. But, as our federal prosecutor unambiguously told me, "How did this guy end up with these lawyers?"

How did Black select his drawing team? Well, he left to his Canadian lawyer to find an American lawyer, and Greenspan chose Gosselin because his daughter used to work for him, which isn't the kind of thing most of us would want to gamble 30 years of adult life on. And Black chose Greenspan because—well, that's a complicated story.

At several angles over the last four years, the defendant had had some pretty pricey legal muscle, from erstwhile Canadian big boys to the affable Greg Craig, who defended Bill Clinton during the impeachment trial, mainly because, as one commentator noted, he was a nice Black White lawyer you could put on TV without frightening the children. But, when the U.S. Attorney in Chicago filed the criminal charges, Conrad Black found himself with a real-life problem: the feds had used a lot of the old-fashioned proceeds from the Park Avenue apartment sale, and necessarily rely on enough of his assets and his and you that he didn't have the wherewithal for the big time mouthpieces. That's a tense hour outside of the United States government court; not only buy up the witnesses with plea deals and immunity agreements and SEC "Whistle-blowers," but they tell you: cannot you don't have the wherewithal to do any legal shopping of your own. Hence, taking off the cash flow, without which your

PHOTO: MICHAEL FREEMAN FOR GLOBE PHOTOS; GARY HALL/REUTERS; BLACK: GREGORY HEISLER

BY MICHAEL FREEMAN

each. We go in the media understand very little about the way any of the staff we cover actually write. "Do you play billiards?" he asked. "That's what a snail's kila." And he started to explain that a snail's kila about hitting the ball into the pocket but about lining up the shot to reach off the red ball on to the other cue ball. Arf... I think that's what he was saying. "Billiards" in the very specific British sense or the more general American sense. I wondered who else Eddie Greenstein, as Black's Canadian lawyer,

meeting and, they found Black & Co. not guilty on two counts of the "schism." As on the remaining ones—the U.S. scheme—they convinced only one narrow member. But that's enough to put them free behind bars for the rest of their working lives. I suggested afterwards that the U.S. Attorney's office might as well adopt an acronym for the Brighton bombing: "You have to be lucky every time. We only have to be lucky once." A couple of years profound embarrassment at the length of the sentences: 30 years for

back in. Throughout the trial, the judge laughed. The lawyers laughed, the press laughed. But the jury was more generous. One forty-bucks-a-day politician isn't enough to sit through six months. But that's eight hours a day after they work in the law offices of winter months in a long season's summer. Forty bucks a day is only worth it if it's no joke. If it's serious, if there's some thing real at stake.

The great moral opportunity of the Black defence case was to encourage I'd imagined with CNN's Steven Seidman but which other

you don't see. Seidman's southern gaze, you can't miss and you can't miss him in his *As the World Burns*. But that's the characterisation, this trial was great because, not so good on the show.

It was a question of time to match to the joke, even the Seidman was not enough against the serious. If you take four defendants plus their legal representation plus a swollen U.S. government team including various dead-end FBI agents and postal inspectors Dave Lennihan who did nothing but an arrest in the newspaper's expense, by the time you've invited all of them to the trial and to prepare a small courtroom, it won't look like a courtroom anymore, so much as a corporate seminar someone booked into two small conference rooms. There's no room for the layout. The government table went right next to the jury box, making Eric Sussman and his team to face the 12 women and four men and stand and yell their way through any unfavourable testimony. Prosecution and jury were so close that I worried in mid-trial, when my forecast of a lawsuit about jury was popping over bigger gun barrels in court and the measure

was, in fact, it could tell, posted reinforced by almost anyone. The government had some expert handling out copies to the jury of the *Massachusetts* Times, a community newspaper serving California do most and the only property owned by a Hollinger subsidiary at the time it signed non-compete agreements with Black, Bakker and Co. The prosecution's argument: why would the *Massachusetts* Times and a non-compete with Lord Black? In doing agreements, Newman sought to make the point that the non-compete was not a simple deal with Hollinger and all of its assets worldwide. So he asked Eric Sussman, the government's lead prosecutor, if he had had that copy of the *Massachusetts* Times so hard.

"It'll cost you a buck," quipped Sussman. Or rather, "quipped" Sussman. Nobody laughs at the non-compete because by now Sussman's name is gone, lost of all the jury. So of course he had in his pocket and pulled out a greenback and inserted something about never letting a buck that he didn't give the government is due. And he was rewarded with a modest cheer.

Wrong. What he should have done was read on Sussman's display without moral outrage: "What you think can a black-outed country client (I'm in jail) This is the trial cost, *Massachusetts* Times. This trial may be a joke to you, but it's not to Jack Blackberry." Eric, if you're a snail, you're only strong through this thing for four months because it matters. It's not like about, who can't

ties. A few weeks later, Conrad was gone, and the Telegraph was just the *Journalist* that went back, another sort to be disposed of in the interests of maintaining shareholder value. The conviction of Black for fraud requires us to believe that he would perjure his poor age, his effusion and his A-list party invites for a few million bucks in non-compete fees from David Bakker's list of the empire. Alternatively you can take the view advanced by colleagues that Bakker was sick of Conrad's harshness (he called him) and his flagships and had determined to get out of Hollinger, take his kind of small town papers with him on very favourable terms, and ensure enough other people in his jurisdiction that, if he fell, they would all fall.

Newspapers are a dying business. The only thing more than an empire is more a romance, someone who wants to make money are guys like the "topgun newspaper business" (in Black's collection) who now run the *Chicago Sun-Times* the newspaper business still making in business, it's business. Conrad Black, to quote Sarah Sands again, had "an instinct which is now lost" so much of the industry—that there should be a certain glory in argument, intelligence in newspaper. "If we was too focused to his quest for justice, as much of the conversation was had, it, then his last stand should also have had a certain glory.

Indeed, as the conversation began, the colleague of the prosecution insisted that "The Ladies had a strong day," novel films

lawyer Stephen Koenig. "With lesser means and lesser lawyers, he'd be in the slammer right now." Counselor Koenig is looking at it as a professional assignment that was obviously glib. Given that, his potential team did an amazing job getting a potential century of incarceration down to a third thereof. Which means reasonable enough of you turn the historic principle of English law on its head and start with a presumption of guilt.

Most outside lawyers following the case agreed with Koenig: the folks did terrible given the new material. Most trade lawyers, both involved in Black's co-defendants and the federal prosecution in the U.S. Attorney's office—though the folks knew Greenstein was a cold fish who alienated the crowd, and while the starchy-by-the-folly policy of Greenstein associated with the jury, his client remained unknown, based in the eyes of the press because of a one like a stranded whale in a metaphorical paddling pool.

A week before the verdict, counsel for one of the other defendants showed to me Eric Barbers. And offered this cherry connoisseur's opinion: "The lawyer who your town's big trouble was?" Barbers, reasonably enough, wasn't in the mood for hearing what the "big trouble" was, it being too late to correct it. But they told her anyway: her husband's lawyers had failed to give the jury a sense of Conrad as a human being. Which seems a bit over the top of Conrad's *Black* anything, he's all too human. ■

AFTER THE VERDICT: Black is consoling his daughter and wife, Barbara Andel



He was facing a self-inflicted double jeopardy: he had to survive not just the prosecution, but his own defence team



WHAT WAS MISSING from the Conrad Black trial? Conrad Black Days went by with nobody mentioning him.

know which defendant was operative. In a defence team from two different legal traditions, it helps if your messages mean the same thing in both languages. Otherwise, you can easily end up well said only to the litigants, unheeded.

I mentioned it to Conrad Black a day or so later. "Puh-eh," he said, or words to that effect. "Conrad doesn't play billiards. I've got a thousand balls table, and when he stepped with me he didn't want to play on it at all."

So the defence suggested on, setting up shots but never quite getting the ball. The government alleged three "schisms"—the "U.S. community newspapers" scheme, the "Canadian" scheme, the "perks" scheme—and then upgraded them to racketeering, with twisted. The key argument on racketeering

let her guard down and in her cramped space, you understand that when we were for the lawyers and the lady in the press was just kindness and for a daughter celebrating her 15th birthday in a foreign city with a father whose availability for next year's business was far from certain.

Don't get me wrong. I'll laugh. But, in the leaden unavailability of the court proceed again, I found myself pondering the limitations of jokes. G. as Newman, the whacky one, got a sense of a Canadian party but after a while the gaps about an early lunch and his advanced age all begin to seem a bit generic. Like a living act who announces a privilege to be broken, you successful (or just lucky) as you don't call him because of particular vulnerability it's a privilege to be

CONRAD BLACK'S life's work is in ruins. At the height of its empire, Hollinger International had two kinds of publications: there were the steady-state cheaply distributed end-of-the-century community papers in North America

and according to David Bakker's letter in the three-man courtroom, two of whom also sell advertising, and then there were the flagships, the *Telegraph*, the *National Post*, the *Spectator*—which Conrad saw as vehicles for advertising, for making money. A couple of months before he was ousted, he tried to persuade me to take a job in London with the *Telegraph*. We didn't get on well at talking salary and benefits, or, alternatively, about the production schedule and circulation. Instead, he presented it in open scorn: "It's time to see how hard," he said, putting his hand on his forehead, and other people

from the European Union, and other people

ILLUSTRATION BY JAMES COOPER
REUTERS/REUTERS

The deal breakers

In the end, Black's fate was sealed by three relatively small transactions

BY JASON KIRBY AND JOHN INTINI

For most folks in the central California resort town of Mammoth Lakes, page 7299, the so-called end of the century involving Com and Black was a non-starter. When the Chicago boy returned their guilty verdict, outdoor courts against Black on July 15, the front-page story in the weekly Mammoth Times newspaper was about the impending closure of the local elite club. But at least one reader, Wally Hoffmann, the paper's former publisher, has followed every legal twist and turn with profound interest. After all, the newspaper was at the heart of one of the three relatively small deal breakers Black suffered guilty of, and is inextricably linked to the disastrous parent boy's downfall.

It led vindicated by the jury's decision," says Hoffmann, who as publisher chronically reported on Hallinger for many years, who owned the Mammoth Times through a subsidiary between 1999 and 2001. Hoffmann gave evidence to the Hallinger special committee about the paper's financial health that contradicted statements from Hallinger executives. That report triggered the criminal investigation into Black and his co-defendants. Hoffmann subsequently lost his job over his comments to the committee. "But turn him, the results of this action are not just a man having some legal problems, and stockholders having financial problems," he says. "There are little kids in a little pond called Mammoth Lake whose lives got turned upside down for doing nothing other than telling the truth."

Conrad Black and his lawyers have also tried their best to spin his guilty verdict into a victory. The special committee first accused Black of stealing US\$40 million from shareholders. By the time Federal prosecutors got involved, the figure had been scaled down to US\$90 million, then further whittled back to US\$40 million. When Black was finally convicted, his lawyer Edward Grossman went

to press parent to meet the low associated with those convictions was just US\$2.6 million. But for all Black's post-conviction bravado, the truth is his fate was sealed by three relatively small transactions. Setting aside the obstruction of justice conviction, which pulled most of the 11 trial, out, almost of perfect and misleading charges he faced, the years have said they never really had any doubt Black was guilty on the three smaller charges. And to Black, who had strived to influence stories through his daily rife as the Sunday Telegraph, was undone by the likes of the Mammoth Times and the Journal News. "They may have been small but they were the strongest causes and the most egregious examples," says Ted Chang, a Chicago lawyer and former U.S. prosecutor who followed the trial closely. "The jurors were

BLACK HAD STRIVED TO INFLUENCE NATIONS THROUGH SUCH LOFTY TITLES AS THE 'SUNDAY TELEGRAPH,' BUT WAS UNDONE BY THE LIKES OF THE 'MAMMOTH TIMES'



BLACK (left) and Farnham say they didn't request non-compete, the Mammoth Times

able to make sense of the different crimes." Black's downfall began in the late 1990s. With Hallinger's increasing smug and anger, Black and his partner David Radler began to cut off the chain's small companies by paper to raise cash. According to prosecutors, with such cuts Radler and his co-defendants wrangled illegal payments out of Hallinger International in the form of non-compete payments from the publishers.



HOFMANN (right) played a big role in paid a price in Black's road to conviction

for three years. Forum's 62-year-old president Lloyd Case, who has been described as a "gravel voiced, slightly heavier better figure," testified that he had not requested a non-compete. Why would he? He'd barely heard of Conrad Black. And he didn't expect Hallinger—which, as far as he could tell, was in the business of owning properties—would ever want to set up across the street from him in Jenkintown. But Case was aware that the non-compete didn't affect the purchase price. "We'd be silly not to take it," he told the jury. "It was not a consequential thing to me." So much so that when he asked the deal, Case, an accountant by trade, reported to have hardly noticed that US\$100,000 of the fee was heading straight into the bank account of Hallinger Inc., a holding company controlled by Black and Radler, instead of Hallinger International.

A couple of days later, Photon Media Group bought about 10 newspapers from Hallinger for US\$55 million. The deal, which involved papers in Michigan and Indiana, included a US\$1-million non-compete payment, of which US\$600,000 went directly to Hallinger Inc. David Pearson, the president and CEO of the Photon, Inc.-based firm, testified at the trial that while non-compete was standard practice for his company when dealing with others who had close ties with the company, he didn't request one of Black and his associates because he didn't consider them competitive threats. But when Hallinger came down to sign on the dotted line, a "didn't have" to include Hallinger Inc.'s name in the deal, he trembled, because it didn't affect the bottom line.

The defense tried to argue the non-compete payments were not just approved by directors, but that the existence of the payments weren't deal breakers for Pearson and Forum. But jurors drew the line between those buyers who simply acknowledged the non-compete clause, and those who actually sought them from Hallinger Inc. Instead, the biggest payoff Black and the other co-defendants received came when Hallinger sold its Canadian duties to CanWest Communications. The men pocketed US\$15.1 million in non-compete fees. But that one, CanWest's vice chairman Izzy Aghar had made it clear he wanted a non-compete clause to Black Black from setting up shop again. That was enough for jurors to acquit the defendants on any charge related to CanWest.

While both the Pearson and Forum deals generated non-compete in the state those words of failure, the big money, if it can be called that, was what Black and Radler extracted from a Hallinger subsidiary called



PROSECUTORS CONTEND THAT THE US\$5.5-MILLION DEAL WITH APC WAS NOTHING MORE THAN A BONUS GUSSIED UP TO LOOK LIKE A NON-COMPETE DEAL

American Publishing Co. APC had been a big owner of community newspapers in the U.S. in the 1990s, but by February 2001 almost all of the papers had been sold off, except for the Mammoth Times. That didn't stop the Hallinger executives from signing a non-compete agreement with APC that gave them pocket a total of US\$5.5 million in return for not opening up the newspaper within three years of leaving the company. According to prosecutors, the money was nothing more than a bonus gussied up to look like a non-compete deal, because those types of payments were far from common. What wasn't thought, was that Black and Radler took it from APC not to compete with themselves. Months later Hallinger unloaded the Mammoth Times to Horizon Publications, a company then owned by Black and Radler, for a buck.

In the greater scheme of things, it was a bit of a transaction. In the Hallinger special committee's report, the whole APC non-compete payment warranted just a few paragraphs of 513 pages. The report blamed Radler for creating "sham" documents to cover up the payments. But the special committee spent far more time dealing much larger transactions, including the deal stack with jurors, who convinced Black on two fraud charges related to the APC payments.

There are some observers who think the surprised outrage wasn't worth it to avoid further dealback. "I think it is a conspiracy to seduce," says Andrew Salmans, a Chi-

cago attorney who followed the Black trial. "I think if you asked parent why this particular one, they may not come out and say it was a compromise, but I bet that's what it was." To parent who have spoken out since the trial have said they almost immediately reached a non-compete guilty verdict on the three smaller fraud charges.

If the jurors were initially divided over the legitimacy of the Pearson, Forum and APC non-compete agreements, they'd have been well within their rights. Self-defense of the type that went on with APC isn't necessarily illegal, say legal experts. But that assurance there is full disclosure to the company's board of directors. "You can do anything you want in terms of payments as long as the board approves," says Peter Henning, a law professor at Wayne State University in Detroit who followed the trial. "Because argue, as the defense did, that there's nothing untoward about it."

So when did the defense go wrong, then? Chicago lawyer Hugh Totten says one of the defense team's greatest failures, in relation to the three fraud charges that stuck, was their inability to show how the deals were far to Hallinger International's shareholders. Clearly it wasn't enough to prove the defendant disclosed the payments, but that the transactions were good for investors, too. "I think the defense went halfway," says Totten, who followed the trial.

Totten thinks that Grossman and Co. successfully proved that non-compete of this kind are a normal way of doing business and that the deal was a fair one. They paid me fair on ordering the central deal of the deal, that he not open up the newspaper within three years of leaving the company. According to prosecutors, the money was nothing more than a bonus gussied up to look like a non-compete deal, because those types of payments were far from common. What wasn't thought, was that Black and Radler took it from APC not to compete with themselves. Months later Hallinger unloaded the Mammoth Times to Horizon Publications, a company then owned by Black and Radler, for a buck.

Black has once said his stake in Forum was and hence the Mammoth Times—to Radler, but his troubles with the California paper are far from over. The Securities and Exchange Commission has read Black over the sale of the paper in August 2001. The SEC argues Black and Radler violated a US\$1.25-billion offer of a small California publisher to clear the way for their exit, without informing the board of the outside offer. In the end, it was the smaller transactions that sunk Black, and they will continue to haunt him well into the future. Radman in Mammoth Lakes, though, probably won't ever read about it. ■

with the health of his). This autobiography glosses over his reaction to the death of his degenerate alcoholic father, believed to be a suicide. It reveals a man who took time to find his way in the world and experienced disaster when he did. He writes of experiencing terrifying anxiety attacks for years beginning in the 1970s, but is silent regarding what their cause and cause might reflect on his life as an "amateurist" of descriptions of historic death-thrash like those of Henry VIII or Alexander VI (Borgia)?

His first wife says she fell in love with the person behind the "Mask." Unfortunately that sentiment was a wonderful, vulnerable, very shy man, "the exact shadow of Black's Anthony." He was not prior to polyphasic psychosis. "To me he'd say 'Let's get a glass,'" she recalls. His first marriage was an heir of social engineering to it. He married Shirley Wilson, his former secretary, after getting her pregnant with the first of their three children. (Though Black had called it a love marriage, his young wife was never really absent, he didn't put his name on the birth certificate. Initially, concerned it would affect his business deal, says.) In his autobiography, Black describes the period after his wife walked out on him, fed up with the London social scene, as "lonely with few, still friends, heartache and loneliness." Of Ariel, a long-standing friend to whom he proposed after two days and one lunch in a 10-week span, Black is in thrall. As the now-famous birthday dinner for her in La Grenouille, he begged

HE PROPOSED To Ariel after just two dinners and a lunch



IF BLACK HAD DARK NIGHTS OF THE SOUL THEY'RE NOT PUBLICIZED. BUT HE DOES HAVE A CHAPEL ON HIS TORONTO ESTATE, SUGGESTING HIS BELIEF IN A SOUL.

of the "Lure Women," unapologetically about her ability to confound the aging process and her running figure. "I've written and it's all natural—she looks better with her clothes off than on." He was most shocked at the March 8 Christmas party last year, seeing himself at the buffet, chatting amiably with anyone who approached, and dutifully holding his wife's hand when she

had the dance floor.

It's telling that Black never mentions the greatest darkness from his younger years. Among a friend and an unapologetic—David Reardon, the notable exception. Despite his conservative remarks about journalists, he is fondly regarded by many to whom he offered opportunities. He can be gracious—when the stakes aren't high. In January he issued an uncharacteristic apology for his review of Margaret MacMillan's *Nixon in Canada* in the *Lancaster Review of Canada*, expressing regret for his "inadvertent condemnation" and "the slightly patronizing tone of several sentences." One piece of his legal defense return in *Chicago* speaks of him with great affection, recommending his candid optimism and pep talks when morale was flagging.

His inability to become an icon is viewed as proof of

Black's bully was lost, more, it reveals his vulnerability to what others think of him. After the lesson in Ramsey Cook wrote a critical review of *Diagnosis*, Black went on the rampage, saying Cook was a "distant, superficial little test" who possessed "the professional ethics of a rodeo cowboy," a rebel later reduced to his colorful put-downs of the "Moose" and "pygmies" who prevented him as the American courts.

As a biographer, Black is sensitive to human frailty. He recognized Nixon "was often his own enemy, because of his complex personality." Of his love for Napoleon he said, "I always felt that the Napoleonic element in Napoleon that drove him to greater and greater undertakings was his boundless self-love." But he always allowed to his own shortcomings. The public persona he adopted—never retreat, never surrender, and above all, never apologize—may have won other men wars but it has created his long battle with the U.S. justice system. His refusal to show any contrition or remorse stands to affect his own legacy.

Even now, Black continues to cut himself the embargo from in a three-part series. As he told the *Guardian* during his trial: "Stage one were the allegations of rape in the so-called dowry. Stage two was the big battle. The press like a big battle—so they had to reiterate me to some degree, because they can't have a big battle with a corpse. And then stage three was what I saw." His refusal to concede defeat, telling reporters he is an innocent man about to embark on "the next phase of his long war." Black has always thrived in combat, and now when he will find when the battle ends.

In conversation, he has no place as the pilot, though Black clearly has considered it. When a *Guardian* reporter pressed Black on whether he could be reformed in prison, he answered, "I don't expect to get there. But yes, I would be. You know, Nixon said some of the best writing's been done out of prison just think of Levin and Gandhi. Two writers with whom he was not in great sympathy." Still, he sees himself as the prisoner Nixon—creating uncharted, even victorious, contrary to prevailing evidence. "He fought successfully all his life, and when he died he was acknowledged to be a unique, and in his way, a great American. His enemies left away, and he slipped the early bonds of moral conduct and became the embodiment, the allegorization, of generally well-intentioned determination, not less than human in his feelings but almost apocalyptic in his strength. As he had begun to grow at the conscience of a nation." It would be my to say that Black the myth has finally consumed Black the man but human narratives are never so easy. ■

Down with Black's ship

They were three very different men who ended up trapped in another's nightmare
BY MICHAEL FRISCOLANTI

Peter Atkinson is not your typical fraudster. In 2001, when Halliburton shareholders started to complain about the lavish vacations and the multi-million-dollar bonuses, he was the lone voice arguing back. Conrad Black, as all the private jets and cars down on the executive perks. A year later, when auditors began to investigate the nonconformity to corporate governance, a gale ridden Atkinson agreed to co-operate. He confessed to everything, explaining how he and other Halliburton officials paid and piloted money that rightfully belonged to investors. "I said he had been asked to lie, cover up," and Richard Fort, a member of Halliburton International's audit committee. "He was disloyal to his own man," added. By the time Atkinson resigned, he agreed to pay back nearly \$1 million.

But there was one thing Atkinson wouldn't do: flip a lid on Black's behavior. Atkinson was a deal with U.S. authorities, the 60-year-old chose to try his luck in court, hoping that 12 months would look kindly on a man who admitted his mistakes and tried (albeit after the fact) to make things right. The strategy, of course, didn't work. A Chicago jury found Atkinson and two of his former associates—John "Jack" Boulton and Mark Kipnis—guilty of three counts of mail fraud. All three could spend the next 15 years behind bars.

Not this anyone really wanted. These TV commercialists carpooled outside the courthouse to capture the full attention of the media, and then followed defendants. If that for the photo ops on the bottom of this page, most readers wouldn't even know who's who. And in the end, that conspiracy might have been their demise. As hard as they tried, Black's so-called simply could not convince the jury that their name isn't Conrad.

THE CO-ACCUSED Peter Atkinson (left), Mark Kipnis (right), Jack Boulton (far right)

Late many people who know Peter Atkinson, like Black, was named by the guilty verdict. "I was into my stomach," says the former *Southwest* lawyer, who worked with Atkinson for almost two decades. "I regarded him as a man of principle, and never had the slightest misgivings about his integrity." But did Atkinson's former executive vice president remain a highly respected figure in Canadian legal and business circles. Generous, well-spoken and down to earth, his resume includes stints as a director on the boards of Canadian Tire and Toronto Hydro Corporation. After Black, the former federal justice minister and one-time Canadian ambassador to the United Nations, was among the many character witnesses willing to testify on Atkinson's behalf. "It is a person that I would not only trust, absolutely," says Stuart Robinson, another media lawyer who worked with Atkinson. "John Boulton is a disreputable person as a criminal. I just don't believe that."

Mark Kipnis's conviction was equally astonishing—his own. Over the top or house lawyer at Hofferberg International, he was dubbed "the fixer" by prosecutors because he signed all the financing documents. But unlike the others, the 39-year-old never received a penny of the non-compliance payments, and at one point judge Amy B. Ene considered dis-



gling all the charges against him. In private, jurors called him "Stunt Black."

His lips will seal down for his relatively minor role in the scam. "Every one of us who knows Mark are not only saddened by this outcome, but also surprised," says Michael A. Rennie, a Chicago lawyer who worked with him until the late 1990s. "He is not somebody that any of us would have thought would be dishonest or unethical. He just isn't that kind of guy." Even prosecutors did a lot of hard work to get him. More than once, they offered him a deal in exchange for his cooperation, but Kipnis refused—well aware that a plea bargain would mean the end of legal case. That seems inevitable now.

Prosecutors have much less sympathy for John Boulton, Black's long-time tax man. Boulton, 62, is equally convinced of his innocence. When internal investigations first accused misdeeds, he was forced to tender his resignation, when he was later fired, he sued for wrongful dismissal. "If you're not being audited by American Canada, you're bringing complacency," Boulton famously told one Halliburton executive. These days, he is much more careful with his money. During the trial, he reportedly chose a \$99-a-night "efficiency apartment" instead of a five-star suite. On June 30—seven years after he'd filed out of prison at once. ■



Control Black has maintained—with unswerving steadfastness—its innocence since the feds laid charges against him in November 2005. But as the trial dragged on, images from Chicago made it clear that the world's in court had exacted a price on the former press baron.

- 1 Arriving in style at a party at London's Ritz Hotel in 1994
- 2 The happy couple made their way to Hollinger's annual shareholders' meeting in 2000. At the time, Black was chairman of the company and Amel was a vice president
- 3 Flashing a big grin just before the federal charges were laid
- 4 By early April, Black's face shown signs that the daily grind in court was proving to become
- 5 Amel and Black en route to the 12th-floor courtroom in May
- 6 Paying his cab fare outside the court in late June
- 7 Arriving at the Chicago courthouse last week



The next fight begins

Grounds for appeal, protecting assets, prison choice—the battles aren't over

BY JANIS KIRBY

Sentences in the coming weeks, Gerald Black will see his appeals, his assets, his future. Black has vowed to appeal the verdict, a complicated process that could take up to two years. And while some legal experts believe there are reasonable grounds on which to mount an appeal, the fact is, convictions are rarely overturned.

For the time being, Black will likely stay out of prison, at least until he is sentenced. That's been the case with most other recent white-collar criminals, but he'll probably be far too busy to secure his freedom, such as it is. Among the issues to be decided this week whether Black will be permitted to return to Canada to await sentencing or if he'll have to remain in the U.S.

Already, Black has hired a new legal team to get to work on his appeals. "The trial has just begun," says Peter H. Henkel, a law professor at Wayne State University in Michigan. Not only did Edward Grossman and Edward Grossman do not win their client's freedom, but neither lawyer is an expert in the line of appeals. Black will also have a different representative focusing on sentencing issues, and others who will deal with prison placements in order to make sure Black gets

a spot in the best prison possible.

The appeals process won't seriously get underway until he's sentenced. In the mean time, there's the messy question of exactly how much Black stole. With the trial found overruled, the government has demanded Black's net worth of \$12 million, most of it coming from Black. Prosecutors have asked the court to order a criminal forfeiture of Black's assets, including the U.S.'s \$1 million in proceeds from the sale of his New York apartment, and his Palm Beach mansion. Back in 2004, the mansion was listed for sale at \$12.5 million, but it never sold. They're also after Barbara Annel Black's 16-carat diamond ring, worth \$4.6 million. Double matters filed by the prosecution also mention of Black's yacht, the *Black Panther*, and his private jet, the *Black Panther*. But even if the court orders the forfeiture, because he bought them prior to the crimes being committed, the Palm Beach property is also complicated by the fact that it is heavily mortgaged—a fact that currently carries a 20 percent interest rate, according to Black's lawyers. But ultimately it will be up to Judge Amy St. Eve to decide what is seized and how the proceeds

APPEALS could take more than two years

came out during his trial. The officer will also

collocate how long Black must serve under federal sentencing guidelines. It's a coldly mathematical calculation, where each of his crimes is assigned a number on a chart, and then adjusted to take into account certain factors, such as acceptance of responsibility and the dollar value of the crime. The judge isn't bound by the report or the federal government's sentencing guidelines, but judges use them and follow them closely. The maximum sentence Black faces would be 30 years in prison, and prosecutors have pledged to ask for close to the maximum. But defense lawyers insist there were no real victims of the alleged crimes and that there was no criminal intent so they will push for far less time.

When it comes time for Black's sentencing, experts believe Judge St. Eve is likely to be tough on Black, even though he was found not guilty of the most serious charges, such as racketeering. Most experts predict he'll be given between eight and 10 years in prison. "She's going to rail him pretty good on the obstruction of justice," says Leonard Green, a law professor at DePaul University in Chicago who followed the trial.

Black's appeal, then, is a long and arduous process. It's a coldly mathematical calculation, where each of his crimes is assigned a number on a chart, and then adjusted to take into account certain factors, such as acceptance of responsibility and the dollar value of the crime. The judge isn't bound by the report or the federal government's sentencing guidelines, but judges use them and follow them closely. The maximum sentence Black faces would be 30 years in prison, and prosecutors have pledged to ask for close to the maximum. But defense lawyers insist there were no real victims of the alleged crimes and that there was no criminal intent so they will push for far less time.

experts predict. The forfeiture hearings will play out in August and September; Black is due to be sentenced Nov. 30.

While all that is going on, Black will sit down with his probation officer, whose job will be to draw up a pre-sentencing report for Judge St. Eve. The officer will talk with Black, his family and friends, as well as prosecutors and victims of his crimes—presumably the shareholders who first sued complaints about his trading, and the executives who sued Black from Halliburton four years ago.

The goal of the report is to give the judge a fuller picture of Black, the man, than what

depends on whether the judge feels Black's appeal has much hope. "It's become a crisis of confidence," says Henkel, referring to the other white-collar cases. Jeffrey Skilling, the former CEO of Enron, was sent to jail during his appeal while Kenneth Feltus, the former CEO of WorldCom, was allowed out on bail. Adds Green, who believes Black will be sentenced to prison: "This judge is a Republican, a Bush appointee. The chances are she's going to come down hard on him." If Black is ordered to prison, he'll be given a specific date to turn himself in, usually 30 to 45 days after sentencing.

Not one to go down without a fight, Black depends on whether the judge feels Black's appeal has much hope. "It's become a crisis of confidence," says Henkel, referring to the other white-collar cases. Jeffrey Skilling, the former CEO of Enron, was sent to jail during his appeal while Kenneth Feltus, the former CEO of WorldCom, was allowed out on bail. Adds Green, who believes Black will be sentenced to prison: "This judge is a Republican, a Bush appointee. The chances are she's going to come down hard on him." If Black is ordered to prison, he'll be given a specific date to turn himself in, usually 30 to 45 days after sentencing.

Not one to go down without a fight, Black



PROSECUTORS want Black's Palm Beach mansion (above left) seized, selling (above right)

WHEN THE TIME FOR SENTENCING ARRIVES, MOST EXPECT THE JUDGE TO COME DOWN HARD ON BLACK, SENDING HIM TO PRISON FOR AT LEAST EIGHT YEARS

is sent to mount a vigorous appeal on all conceivable grounds. Each day of the trial the judge made a dozen rulings, and Black's lawyers will pass out a copy of each one. Observers already see some areas where appeal has a chance. For one thing, the judge allowed prosecutors to use the jury notes written in Black's final style, along with details of his jet-setting lifestyle. Black's lawyers will fight those documents, arguing that the out dated appeals to the jury's chief prosecutor James Marston, the president of the Ontario Real Estate Association, who followed the trial, that that argument will be dead on arrival. "While I don't agree with what the judge said to 'allow them,' the decision was not poorly wrong," he says. "It's the type of thing that the appeals court will defer to the judge below on."

Observers say Black has a better chance fighting the conviction than the judge gave to the jury before their deliberations, especially after the witness' outburst instruction. The ruling, also known as the "wild ignorance" instruction, allowed the jury to consider whether Black and his co-defendants deliberately avoided knowledge of the crimes at Halliburton International. The instruction would have made it easier for the jury to convict Black. "He's going to go to war over the outburst instruction," says Henkel. The issue, say experts, is that the prosecution presented evidence that he was intent to prove Black orchestrated a conspiracy, as how could he also have had his head in the sand? But while there have been convictions overturned on the basis of an outburst instruction, they are extremely rare. In all the other white-collar cases where it was used, only in the case of Edward the court agreed to have an outburst appeal, and he lost.

Others point to the outburst charge as a point of appeal, arguing that the judge shouldn't have let prosecutors extend their permission to a crime that happened in Toronto. The judge's refusal to let Black's lawyers recall David Radtke to the stand, and his decision not to provide transcripts of testimony to the jury, could also be successful appeal. But lawyers say that beyond these, taking issue with the jury's judgment is usually futile. "The only hope is to look for an error in law as hopes of fixing a verdict."

It will be a long time before Black knows for sure whether he'll serve his full sentence or not. The appeal could take more than two years to send through the several circuit courts of appeals. A panel of three judges will hear the case, first in the form of written briefs and then in oral arguments. If the panel overturns Black's conviction, the prosecution can appeal. But if the judge upheld Black's conviction, he can still call for jury members retriering by the same appeals panel.

Finally, if all else fails, Black will be due to see his case to the U.S. Supreme Court. But there's almost no chance he'll succeed. Of the thousands of cases it hears each year, only about a dozen are criminal cases. And there is still the question of how Black will keep paying for all this. With practically all of his assets under an automatic stay—meaning he can't sell them or use them to pay off his debts—Black has no money that he doesn't have to go to someone else to get.

Once the last of his appeals and his money are exhausted, Gerald Black will have no choice but to adjust to his new life behind bars. ■ —Jeffrey Skilling

What's the joint like?

Former inmates say
Conrad Black's new
life behind bars will
feel like hell on earth
BY COLIN CAMPBELL

Fred Shapiro leaves a thug or two about what prison is like for a white-collar criminal? He has been there—once in the 1990s for a US\$1.6-million bank fraud he committed in Philadelphia, and again in 2001 for identity theft. His message for Conrad Black should be: "You've made it to the 15-year prison sentence he is facing. 'God help you'."

Black's life in prison will be a wrenching departure from the lifestyle to which he's accustomed. His world of expensive New York apartments, private jets and luxury yachts will shrink to the size of a small cubicle, a two-foot by three-foot metal bed, basic food, and a shared desk. Dinners at pricey restaurants like New York's Le Cordon Rouge will be replaced with food that inmates compare to livestock, expert military chefs forget chocolate and wine. If Black is caught without alcohol, his punishment could involve weeks in solitary—a prison unit—a prison sometimes called "the shoe." Rather than spending time with scrumptiously furnished inmates or family, most of his fellow inmates will be drug addicts less than half his age.

As time will tell, Black cannot be sure exactly how during his first night in prison, former white-collar criminals say—a hellish, confusing and sleepless few hours often spent in a maximum-security facility among violent offenders as prison officials sort the new inmates and send them on to their eventual destinations. Most agree the beginning is the most stressful part of incarceration. For Shapiro, the lowest moment came seeing his family walk to the prison doors to say their good-byes. "It's a horrible experience and one I won't wish on anyone."

Upon arrival, Black will be stripped of his clothes and belongings, which will be packed away and sent home to his family. He will be searched by doctors and housed alone, unless he can prove himself and receive a cellmate. After being processed, he will likely be shipped to a lower-security federal prison—a less secure

one facility but still very much a prison in jail. "When you walk in you know nobody. You know nothing about the world that you're in. That in itself is just frightening," says Walt Pardo, who served 11 months in a federal prison for obstruction of justice, money-laundering and mail fraud offenses he committed working for MCI during the mid-1990s.

It can take months for prisoners to adapt to the boredom and the day-to-day grind. The realities of low-security prison life in the U.S. would come in a huge crash to most Canadians, who've gotten used to the idea that non-violent prisoners live in country clubs, like the Fennelle Institution in B.C., where Black's former business partner David Blacker is expected to serve his 20-month sentence. There, prisoners can make their own meals, wear their own clothes and listen to their own music, like blasting music. Things have gotten a little tougher at Fennelle in recent years, after stories about the daily entertainment sparked a public backlash. Officials had the park hole golf course removed, for instance, and nobody can use their home dropped their anymore, as has occurred elsewhere. Cook Thatcher Kennedy died in 1999. Still, it's Strange-Lee compared to most U.S. facilities.

Where Black is housed, sleeping quarters resemble crowded, windowless crowded dorm rooms. Even at night, inmates converse. When one person gets sick, everyone does, says Pardo. The beds are often little more than metal frames covered with two each thick mattresses. Washrooms and showers are shared and cramped. "The toilet stalls are so



small that it is difficult being inside, forget any bathroom trading here," warns Michael Sison, who is serving a 45-year sentence for drug offenses, about the Lompoc Federal Prison Camp in California. He documents prison life on his website *Michael Sison's Not Medical Facilities*, about the Lompoc Federal Prison Camp in California. He documents prison life on his website *Michael Sison's Not Medical Facilities*, about the Lompoc Federal Prison Camp in California. He documents prison life on his website *Michael Sison's Not Medical Facilities*, about the Lompoc Federal Prison Camp in California.

Even prison camps—the low-security fed and jails where Black will likely serve out at least part of his sentence—are highly regulated, rough places, say former white-collar prisoners. Guards patrol every part of the facility. Guards patrol every part of the facility. Guards patrol every part of the facility.

THE ELKTON, Ohio, low-security prison cell Black could call home (right)



BLACK'S FORMER BUSINESS PARTNER DAVID BLACKER SERVES HIS 20-MONTH SENTENCE AT THE FENNELLE INSTITUTION IN BRITISH COLUMBIA

with these in solitary or being sent off to a higher security prison. "The objective of the POP [Bureau of Prisons] is to keep you off balance," says Shapiro. Trying to stay up to the guards may be tiring, but it's a big mistake. There's an unspoken rule: inmates are rarely between staff and prisoners, says Mayne. "White collar criminals have to get in their heads that they are not above anybody else. You're no smarter than a lot of other people, but you have to be one of them."

As for work, inmates get a minimum of four hours a month with friends and family, but that doesn't make up for the loss of their families. They are not allowed to get any U.S. federal prison. Hugs and kisses "in good faith" are permitted, but only at the beginning and end of a shift, according to the BOP. Friends and family must also be on an approved list, and follow a basic dress code: two mini-

skirts, glasses or "swimsuit shorts."

Consens who are slow to accept their fate will struggle, especially in forging all support and friendships. "It's better to be around people who realize that they've done some thing wrong and have accepted that and are trying to move on," says Pardo. The fact that Black has so vehemently denied any wrongdoing throughout his trial is likely to make his time in prison particularly intolerable.

"He is the kind of guy that just expresses how he hates the stuff of legal papers and is doing everything he can to get back out because he hasn't come to grips with it," says Pardo, who has followed Black's trial. "I can tell you, for that type of person the experience will be very difficult. And it's even more among white-collar criminals, especially ones who want to trial rather than plead out," he adds. "They are just absolutely miserable—constantly working to get

'WHITE COLLAR CRIMINALS HAVE TO GET IT IN THEIR HEADS THAT THEY ARE NOT ABOVE ANYBODY ELSE. YOU HAVE TO BE ONE OF THEM.'

themselves fired from this situation in their mind. But no one in there believes it."

In the end, the emotional strain of prison life is a big price to pay to get out of it. Right? Right. Happens, but most inmates in lower-security prisons are not violent

many are there because of good behavior. White collar inmates will also quickly pick up on a few unspoken prison rules. Shapiro says the most important are to mind your business, keep your eyes on your own day, people will tell you, and make sure people respect your space. "If you're sitting with someone and having a meal and they take their shoes off or they spit, you want to let them know that if they want to do that, they do it in their own place, not in your place," he says. Many white collar prisoners advise avoiding sports gambling (which is common, and talk of risk is also constantly being discussed), smoking—it's also a big no. Mayne recalls the time an inmate told guards about a telephone that had been smuggled in. "That guy just got the shakedown from better out of him," says Mayne. "We never saw him again."

Beyond the hardships, inmates have very few perks. At the prison commissary, prisoners can buy canned meats and other snack foods, toiletries and non-essential clothes, and even a radio and headphones (but not TVs). The grounds at most camps are well kept (the camp in South Dakota has been given a horticulture program and beautiful rose gardens, Mayne says). There are also anti-grid jobs—working from working in the library to hard labour outdoors like picking weeds or mowing lawns. They may be tedious, but along with hobbies like reading they are vital to staying healthy, say prisoners. "You have to find activities or you will lose your mind, you really will," says Pardo.

Perhaps most importantly for Black, there will be plenty of time to write and read—struggle pleases that may help him make his sentence. But as Shapiro, the inmate at Lompoc, warns visitors who may soon face time in his prison camp, "I suggest expectations for a lesson in humility." ■



COLIN THATCHER avoids B.C.'s Fennelle Institution (above), where incarceration means 20-month living and 20-month watching



Justice in a strange land

Constant objections and huge advantages for the prosecution marked Black's trial
BY STEVEN KURUKA

It seems like months ago that I was sitting in a Chicago courtroom watching the first witness testify in the Conrad Black trial. Actually, it was months ago. His name was Gordon Poiré, and he was Conrad Black's successor as chairman of Hollinger International and had been sworn in as the corporate governance guru of the company. I watched intently as Eddie Greenpan, Black's legendary Canadian counsel, began his cross-examination of this client's assistant. He was barely into his warm-up pitches when a steady stream of objections came from the prosecution. "Sustained," was the response by the diminutive and youthful trial judge, Amy S. Eve. There was no opportunity for Greenpan to respond as he would as a Canadian courtroom. The calls were made instantly, like an umpire calling balls and strikes.

Conceptualized the look of a lawyer misled by a succession of pious to the abdomen. He struggled to restrain his composure and consulted with his team of Chicago attorneys. There were a series of long, awkward pauses at the counsel table as the basic rules of procedure were explained to the disoriented barrister and Q.C. from the land of the north. Fortunately for his client, Greenpan would eventually regain his form.

This wasn't the first striking example of the differences in the two countries' criminal justice, however. It began with the process of jury selection, with each potential juror required to complete a lengthy and detailed questionnaire. During jury selection, Judge Eve reviewed some of the questionnaire answers in full view of the lawyers and defendants. Several of the prospective jurors seemed to have made grumpy grumpily because someone made tens of millions of dollars, it doesn't mean he was necessarily engaged in criminal conduct.

This kind of insight is unavailable in Canada, where there are no extensive questionnaires, no lengthy interviews. Here, jury selection is a fairly routine and perfunctory

process. Lawyers have virtually no information to go on and it is entirely conceivable that in a break-out event trial, for instance, a couple of the jurors may be bagging systems themselves. It is not a jury of 12 strangers but rather 12 unknown men (and women).

Here, the *procurator* American industry of witness. Evaluating and advising on potential jurors is a thriving business in the United States, one that costs hundreds of millions.

EDDIE GREENSPAN (bottom) is clearly more used to the familiarity of Canada's courts.



hundreds of dollars for the psychologists and social scientists experts involved. To my knowledge, in Canada there are no jury consultants. They would keep the bankruptcy law busy.

Of course, in America, being a juror is not the enormous public service that it is in the Canadian world. Jurors regularly write books about their unique experiences and offer personal insights about their deliberations. The opinions of reporters and young interns are ready to be shared upon the courthouse as counsel jurors and discuss exclusive insights

straight from the jury room. In Canada, publicizing details of jury deliberations would constitute a criminal offence. The jury leaves the courthouse as discreetly as it entered.

But in other ways, the U.S. system is far more discreet. Every day during the Conrad Black trial, the attorneys and judge would shuffle off to the side of the courtroom where their whispered conversation are recorded as the jurors privately sort out of earlier testimony and conclusions of the day's proceedings. In a nation promoting a robust freedom of expression, secrecy is a juxtaposition in the courtroom. There are considerations in Canada. Everything is exposed publicly on the record in an open and public setting. In some circumstances, the jury is removed while the matter is heated, but everything is discussed out in the open.

For about an hour and a half longer than a typical Canadian counterpart. At times I wondered if the pace of the trial was not grueling for the jurors, but none complained.

Beyond the style of the proceedings, there was a vast difference in substance as well. For example, the defence was required to provide nearly reciprocal disclosure of its witness list. In Canada, the only disclosure obligation for the defence relates to expert witnesses.

U.S. lawyers also made great use of demonstrative evidence—such as videotapes, blow-up projections of email messages and highlighted portions of the evidence—particularly during cross-examination and testimony. Canadian trial lawyers lost from a great deal about the compelling and persuasive value of such tools in an American courtroom.

But if this is a big difference in how the Canadian and American systems would approach the case against Conrad Black, it

seemingly confirmed the jury that it would be dangerous to rely on Radlic's evidence. But it's difficult to know just what the jury took away from that, or any other testimony.

The prosecutors at the Conrad Black trial were quite adept at making a series of objections which had the effect of disrupting the flow of cross-examination. Every day of the



There were very few witnesses for the prosecution who attended court without their own attorney present. On occasion, some of the witnesses would appear without any indication of what their role was. In over 20 years of conducting trials in Canadian courtrooms, I cannot recall a single occasion when a witness attended court with counsel present. And yet in the Chubb prosecution, witnesses would routinely hold privately with their attorneys the course of cross-examination. That would be severely frowned upon in Canada. Even the prosecution in Canada is strictly prohibited from communicating with a witness in the midst of cross-examination.

Without doubt, however, the most extraordinary advantage for prosecutors in the U.S. system was their ability to reply to the defence's objections, ensuring that the first and final word always went to the government. Prosecutors Tim Bawden's final rebuttal

THE MOST PROFOUND ADVANTAGE FOR PROSECUTORS IS THE FACT THAT THEY ALWAYS GET TO HAVE THE FIRST AND THE LAST WORD ON EVERY WITNESS IN THE CASE



IN FEDERAL COURT, prosecutors the Patrick Poiré (left) (bottom) sit right in front of the jury

Black trial saw more objections than you'd expect to see in a two-week trial in Canada. The prosecution's objections would generally be declared by title without any explanation. "Objection, Relevance, Judge," would be a typical example. Some of the objections would be benign to a Canadian courtroom. "Noted and answered," a focused objection to the Black trial, for example, not a permissible basis on which to object in this country.

Aside from frequent interruptions, the prosecution made great use of its position directly in front of and facing the jury, as might be get the first word on every witness, and on the case itself. Redundant examination by the prosecutors of their witnesses often essentially repeated the substance of the initial testimony. A Canadian judge would severely curtail a prosecutor's ability to conduct a blow-by-blow redemptive examination, but in the U.S. prosecution has been reluctant to waive the impact of cross-examination.

But the normal rule to have lawyers and the judge building and whispering in the corner of a courtroom, it was added to the overall lack of formality in the U.S. system. As a Canadian trial lawyer, I am accustomed to referring to my adversary as "my friend" and to stand wherever I object or address the judge. Denied in my objection, I respectfully make submissions to the court rather than tell the judge what I think or believe. I never address the prosecutor directly but only the trial judge. I bow my head in respect to the presiding judge in a court and leave the courtroom.

None of this ceremony was evident in the Conrad Black trial. There was a relaxed atmosphere in the courtroom, punctuated by casual banter among the lawyers. On occasion, I felt like I was watching a comedy club rather than a solemn judicial proceeding that determined the legal fate of four men. But what the trial lacked in formality it made up for in work ethic. Judge S. Eve presided each day

DAVID LACROIX (top) and DAVID GREENSPAN (bottom) are both used to the familiarity of Canada's courts.

DAVID LACROIX (top) and DAVID GREENSPAN (bottom) are both used to the familiarity of Canada's courts.

crimes on the star witness for the prosecution, the accomplice to the alleged \$66-million fraud scheme, David Radlic. Radlic's deal with prosecutors called for a 29-month sentence that would likely be served in a Canadian federal penitentiary. He would be eligible for parole after nine months rather than the usual 66 per cent of a sentence; that he would serve in an American prison. Radlic agreed to plead guilty and his sentence was adjusted to avoid the completion of his testimony at Conrad Black's trial. This is typical with American system but virtually unheard of in Canada. The concept of holding a witness in contempt when they testify about a case is not a Canadian concept. The prosecution rarely has the right to the truth.

This is especially pertinent with Radlic, an admitted adult who while on trial was uncooperative in any way. The judge ultimately instructed the jury to ignore direct evidence and caution in Canada might be

al to the defence closing arguments lasted longer than six hours and repeated some of the same themes (directly made on the original prosecution closing. The effect of the courtroom was revealing. The final submissions of the trial judge were presented in less than an hour. An experienced lawyer to the jury in a three-month trial in Canada would almost never finish a day. There was no attempt to revise the evidence and relate it to the charges. The theory of the parties was left to counsel to present, and the evidence was left to the jury's memory, with no access to transcripts or demonstrative tools.

Once the jury left to deliberate, the used courtroom hours were maintained. Unlike a Canadian jury, the jurors were not sequestered and were not required to deliberate on the weekend. It added to the casual atmosphere that dominated the trial and was unbecoming for a Canadian law firm, especially when you consider the surrounding stories involved. As a Canadian lawyer, I was particularly struck by the fact that the jury was not sequestered and was not required to deliberate on the weekend. It added to the casual atmosphere that dominated the trial and was unbecoming for a Canadian law firm, especially when you consider the surrounding stories involved. As a Canadian lawyer, I was particularly struck by the fact that the jury was not sequestered and was not required to deliberate on the weekend. It added to the casual atmosphere that dominated the trial and was unbecoming for a Canadian law firm, especially when you consider the surrounding stories involved.



PARENTAL CARE may alter a gene that regulates how a person behaves as an adult

Charting new body-mind links

Upbringing and behaviour may actually shape our brain's DNA

BY ALEXANDRA EMMING • The link between mind and the body tends to be more the subject of New Age books or yoga workshops than respectable research. Not that this link hasn't been subjected to scientific scrutiny in the last decade; researchers have measured the size of London children's hippocampi to find out what their learning all of the city's streets grown the sector of the brain devoted to memory (it does.) They have studied how our grey matter changes shape and grows after years of meditation. They have even used the brain's sector of receptors to see if we're obese. And despite this flurry of research, they're still a long way from fully following how the 600 billion neurons in the brain create a functioning mind, and how the mind influences the neurological, chemical and biological processes of the body.

One person who is moving as close to such an understanding is a McGill scientist named Meiyi Seyf, 32, a pioneer in the emerging field of epigenetics—the chemical patching system that turns genes on and off, and it is radically changing how we understand the relationship between our genetics and our environment. “With epigenetics, we are changing how we think of cause and effect,” says Seyf. “We are analysing how our thoughts, behaviour and upbringing can shape our DNA.”

It turns out that although we are all born

with a particular genetic makeup, the epigenome determines which genes are active. The epigenome responds to all of things—how we live, what we eat, our environment, which means our genes are malleable, too.

Seyf's experience lives how her environment can stimulate certain thoughts and feelings, and that these thoughts shape which genes are active. In his latest study, Seyf compared the brains of men who had been abused in childhood. His theory is a controversial one—that childhood abuse alters the marking of an individual's DNA, prolonged neglect takes its toll, not only on a person's sense of self, but on his genes too. In particular, it turns off a gene inside the brain that regulates how the body's response to stress, allowing for a person's physical coping.

Examining how abuse changes the molecular workings of the brain is completely uncharted territory, says Seyf. Previously, researchers have explored the link between childhood experiences and adult behaviour, but not the changes to the DNA inside the brain that would cause people to react differently.

Seyf first became curious about the brains of abuse victims after completing a widely quoted study involving rats. In that study,

published in December 2004, Seyf and Michael Meaney, a McGill biologist, found that how a mother rat treats her pups determines their behaviour as adults. Rats that were licked grew up more sensitive than those that were not. They produced lower levels of the hormone cortisol in response to stress, which meant they were better able to cope—and they were more confident and less anxious. But being licked didn't just affect the rats' behaviour; it also altered the stress-response genes inside the brain, and these changes lasted throughout adulthood.

The rat study was groundbreaking because it showed the markings of the genetic blueprint could change in response to parental care. Moreover, “it provides a possible pathway between our thoughts through the electrical circuitry of the brain to the workings of our DNA,” says Seyf.

The next step was to investigate whether the markings on a human's DNA would change in a similar manner when exposed to stress, says Tancu, the director of the McGill Group for Suicide Studies. The brains of eight men who had had their studies. Their medical records showed this group of men had experienced childhood abuse—physical, sexual or mental, or a combination of the three. All had committed suicide in their mid-thirties. The chemical marking on their brain DNA was compared to that of people who had non-abusive childhoods and died of non-suicidal causes.

The results will likely be published later this year, but Meiyi Seyf was given an early glimpse. The gene regulating stress was less active in the eight men. Seyf and Tancu both speculate: though the men had needed to have problems coping, which may have contributed to their suicides. “Children need to be soothed,” says Tancu. “It seems to change the molecular structure of the brain, so how they respond to stress is altered.”

The next stage is to repeat the study with a larger number of subjects. The researchers also want to introduce a control group of adult victims who were not abused.

“Our environment and our thoughts shape what genes are active, which shapes how our bodies work and how we behave,” says Seyf. “Scientists have not explored this pathway until now. It's very complex—and we have just started to map it out.”

BREAST MILK ADDITIVE IS A LOT OF FUN

A study has found that women who breastfeed have fewer baby teeth than those who do not. The study, conducted in Japan, presented two groups of matched women in a blind review of their teeth. One group was a control group and the other was a breastfed group. The breastfed group had fewer teeth, and the researchers found that the breastfed group had fewer teeth than the control group. The researchers also found that the breastfed group had fewer teeth than the control group.



SOCIETY

I THINK I LOVE YOU

You had a connection and then he was gone. What if he was the one?

BY HEIDI REASONER • Forget Facebook, by all accounts, the newest place for online dating isn't a portal of disappointing profiles and poses, it's actually where you'll go to tell your track. Craigslist, perched quietly for its smorgasbord of miscellaneous buy/sell ads and job listings, is now gaining ground among those seeking the love that gets away. Through its new concept—Altruism's George Smith newspaper rate “See the” and “Love’s” Newsmagazine once featured a similar issue called “I Spy”—which some classified competitors, Craigslist’s Mutual Connection in fact and often welcomed space for pushing the misadventures.

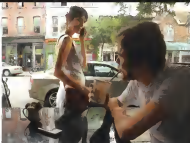
Posting ads there brings a heavy strike out and is somewhat less to affirmations of adoration to colleagues. It's customized to cities worldwide, one unclassified area from Toronto most recently wrote: “Canadian Tim: I held up your checkbook... I flunked school. I dropped your blue clothing bag. I could not take my eyes off you. A drink... and... a few laughs!”

For some, the use provides the elusive “it” factor often absent from paid dating sites. The Craigslist-based service offers the object of their affection in the flesh. Recently on a recent Toronto’s Personals Agent, United Airlines flight attendant Gail Stone, 46, borrowed a flashlight from a gift of a waiting man as she could phone her boss. She didn't expect to be knocked off her feet by the “electricity running through it” but he was sleeping near a coat and before she could catch him he tossed the coil pulled away, with him all the while watching her. “It blew my mind! I didn't get out on him,” she says. Stone discovered Mutual Connection when placing an ad on Craigslist to sell some furniture, and decided to post a short ad to her Canadian guy. She has yet to hear from him.

Jim Rockmaster, president and CEO of the San Francisco-based Craigslist, says the chance of a successful Mutual Connection is often greater than you know their heart's desire. Online dating has been around for years, but it's only in the last few years that they've worked together in a real way. Says a former friend and some mutual connections work was even better, says, says the giant for her co-writer through the years but the timing had never

been right. Now 37 and unhappy in her second marriage, Amy's hoping for that third one. Luckily, Amy's had a year ago after leaving court, leaving him with two young children. Last month, Amy moved out of her online love. “You are the one I think of when I'm happy... I can't tell you how much I miss our friendship, you mean as much to me” she wrote. “I thought it was a good time to get off my chest without jeopardizing our friendship,” Amy told Marissa. Two weeks later, Pete took the bait. “This

“YOU'RE ON THE 7TH FLOOR AND I'M ON 12. I FIND YOU VERY ATTRACTIVE.”



UNLIVE post-dating sites, the Craigslist-based service has been the object of their affection, live

verifies what I've always thought,” he said. Amy's phone conversation, adding the fact it was casual but that he didn't want to be perceived as a home wrecker. “I'm not comfortable leaving the other person. It things happen and you aren't with them anymore than that will be our time. And I'm willing to wait for that,” he said. Amy says she has some work searching to do.

Rockmaster says city centres with sophisticated transit systems are more likely to

produce greater postings—Toronto and Vancouver are tops in Canada. Regina and Saskatoon Mutual Connections tend to be tied with no strings attached sex ads.

But every dating forum has its own brand of abuse and deceit. Maria (not her real name), 42, an IT professional and married mother, recently posted: “You're on the 7th and I'm on 12. I find you very attractive but I'm interested... I'm interested and want to see the elevator, see the following phrase. ‘I find like a chocolate chip doughnut from Timmy’s’ I will then respond with, ‘Allow me to meet you in one.’” Though Maria wrote the post as a long shot, she says Mutual Connections provides a venue to speak one's mind without criticism (you go for anonymous).

post in response to his daughter's note: “you're extremely lame, ugly, people like you annoy me,” says Maria. “I actually thought this was more of an honest approach, in a dishonest kind of way I guess. Just basically putting the cards on the table, this is who I am, this is what I'm looking for.” Absent a paper trail he lost. “You can't sue if you credit card because of course your wife uses the credit card. So you have no choice, really, but to actually go on a first date.”



CHINA: NEW MARTIAL ART IS A HARD NUT TO CRACK The latest Chinese movie, whose fighting moves gave the world a new look at the “kung fu” genre, is “The Legend of the Drunken Master.” A video produced in China shows a monk named Shi Yueshu getting kicked in the genitals. Elsewhere in the video a monk being taken from a rope tied to his forehead. The video claims Tensai Goro helps a man find himself. “This is an impressive martial ability.”

COVER: JESSICA LAMARCA

MAGAZINE JULY 30 '07

49

THE BACK PAGES

film

The best nuclear family
E-10

taste

A Peruvian rat
waves cheifs
F-10

books

To kidnap a
pope
B-17

tv

Can no one in
Horn to sing?
F-10

music

Jazz-killing
coasts
F-10

stage

A festival in a
cemetery
F-10

ty
RK



film

BACK IN 1987, actor Harry Shearer turned up in Toronto on a press junket, ostensibly to promote a new DVD compilation documenting his brief stint as a Saturday Night Live cast member in the mid-1980s. Everywhere he went, though, the eager pressmen's questions addressed the latest exploits of his most famous alter ego: apolitical nuclear industry icon Moe'ys Berra and his egomaniacal sidekick Wallyman Smithers, middle-aged school principal Seymour Skinner and perpetually stoned bus driver Otto Mann, the sangui-

neous, unrepentant and apolitical. And one alpha male decided nearly all requests (including this magazine's) for interviews, the discussion that have occurred have been studies in high-five memebo jumble. (In a May interview with Singaporean-curious Matt Gossman and James L. Boudin, *Entertainment Weekly's* apocryphal was ordered to asked beaming: "Can you jerry please give us a plot twist?"—so no thank.) *Simpsons* trailers that have been circulating net to the YouTube masses since last summer have been intentionally riddled with red herrings. Even the exact locations of the 12 7-11 stores transformed into Wile E. Mann in early July no

This won't hurt a bit

The Simpsons revolutionized TV. Could they revive the big-screen comedy?
BY CHRIS TURNER



is TV's most influential comedy institution, overshadow the preproduction of a wide, mid-generation film based on reimagined characters or recovery, and be ultimately hyped by the quality of the pictures on the screen.

Shearer, for his part, offered only a decision (continuously mandated, no doubt) for didn't know much about the film's plot, he said, and what he did know he wouldn't talk about. He illustrated his points with an anecdote: After principal voice recording for the movie was finished, he was called into a New York studio to deliver a few snippets of new dialogue. At the end of this reading, he handed the text to the engineer for on-set document shredding, which had been standard operating procedure at the movie studio in Los Angeles. Whether the shredder? Shearer wondered. It turned out all used scripts were being shipped to Fox headquarters in L.A. post haste, where they could be destroyed under the watchful gaze of mass-trusted eyes.

The story segued on self-jawing—the kind of thing Moe'ys Berra himself would've disavowed if he'd been alive—during Howard Hughes phase. And the veil of Kermit-style secrecy had extended to every aspect of the process and shrewdly cautious production of numerous, anticipation and apprehension. The *Simpsons* Movie is not the biggest-budgeted movie of the summer, and odds are it won't be the ultimate box-office champ, but the swelling chorus of speculation and propaganda by entertainment bloggers, newspapers columnists and talking heads, mostly based on news-to-conformation about the movie itself, testifies to the unprecedented load of pop-culture baggage it brings with it to the big screen. All of which underscores the motivational cord flared by the movie's creators to pack all their bags into 90 minutes of *Simpsons* in sufficiently original and entertaining to somehow transcend the years

launch the movie's marketing campaign were guided by the state secrets. A press release stating the production, which arrived the day after a week-end in international laws, came with a heads-up: "The *Simpsons* is a black cap." To say the creators of *The Simpsons* taking no chances with their march to the big screen is like saying Homer *Simpsons* enjoys the occasional doughnut—Brendan's politeness was not this effusive in the handling of its film.

So there, why the secrecy? Why, as Bart might phrase it, have such a cow, man? After 18 seasons, 13 live-action and a *Peabody Award*, after breaking in accolades from the Archbishop of Canterbury and the poet laureate of the United States and having guest appearances by everyone from Yogi Berra to Thomas Pynchon, after 400 episodes amounting to more than 100 hours in animated comedy—a significant stretch of it widely acknowledged to be among the finest ever to grace a TV screen—why, all of a sudden, start behaving like Mr. Berra trying to cover up a toxic waste dump, over another hour and a half in the life and times of the *Simpsons* family?

The short version might be best expressed by Homer's signature: "beep beep!"—Doh!—surely the only cinematic catchphrase to grace the multiplex this year that has already been enshrined in the pages of the *Oxford English Dictionary*. *The Simpsons* is not just the longest-running fictional series

(Simpsons: Behind the Laughter) of a wide, mid-generation film based on reimagined characters or recovery, and be ultimately hyped by the quality of the pictures on the screen. Shearer, for his part, offered only a decision (continuously mandated, no doubt) for didn't know much about the film's plot, he said, and what he did know he wouldn't talk about. He illustrated his points with an anecdote: After principal voice recording for the movie was finished, he was called into a New York studio to deliver a few snippets of new dialogue. At the end of this reading, he handed the text to the engineer for on-set document shredding, which had been standard operating procedure at the movie studio in Los Angeles. Whether the shredder? Shearer wondered. It turned out all used scripts were being shipped to Fox headquarters in L.A. post haste, where they could be destroyed under the watchful gaze of mass-trusted eyes. The story segued on self-jawing—the kind of thing Moe'ys Berra himself would've disavowed if he'd been alive—during Howard Hughes phase. And the veil of Kermit-style secrecy had extended to every aspect of the process and shrewdly cautious production of numerous, anticipation and apprehension. The *Simpsons* Movie is not the biggest-budgeted movie of the summer, and odds are it won't be the ultimate box-office champ, but the swelling chorus of speculation and propaganda by entertainment bloggers, newspapers columnists and talking heads, mostly based on news-to-conformation about the movie itself, testifies to the unprecedented load of pop-culture baggage it brings with it to the big screen. All of which underscores the motivational cord flared by the movie's creators to pack all their bags into 90 minutes of *Simpsons* in sufficiently original and entertaining to somehow transcend the years

An animated movie about a rat in a Parisian kitchen is the latest foodie obsession

Rafaelle—his treacherous as culinary elabors while as a musician in the crowd's raised hypotheticals—the gleaming copper of the kitchen's canteen, the precise rendering of Riedel to measure, the cool holding of a host for Children's Lunch. Details are an inseparable as Pinot noir and elegance permit itself, Thomas Keller, the brilliant the National Nap's French Laundry and New York City's Perle, was recruited as a consultant. Industry insiders are the farthings Kary as a wholly Kary-esque creation "The way Ricci lives the ingredients, the way each is considered and handled as if it existed in much as it

defn as a whole—that's Keiler," Zak Polanco, a former teacher at the French Laundry, told *New York* magazine.

Kitchen professionals will adore Rutenwilt's bang-on depiction of chef culture, down to the knife skills. Bourdain leads such subtle references as the faded beams on the cook's wrist. Derrasa was inspired by the kitchen's design and rendering. "I loved it," he jokes. Alison Feyer, manager of Toronto's Cookbook Store, praises the movie's clever depiction of kitchen hierarchy.

Parsing Khabian's accuracy has become a fiction among people who gabble over the distinction between *an* girl and *afar de al*. Finding an error is a badge of scholarly cred. One commenter on Khabian's blog gripes about a chef in the menu yelling out "prepare the ved connector!" In any kitchen they would have just said sweet breads, but if the waiters wanted to go across to the audience about authenticity, as the stomach it is not. Perhaps they thought "prepare the real threes" or "get your pants off." The last sentence is a little odd. "Sertan" obscures his job orders: a 57 Club Blaine had a partner to receive another vintage. Khabian claims the movie's role might be Ross transforming a newspaper by the principal human character, Linares, into something else. While

the snag was over-taught, he says, it would be impossible to fix. Even the inspiration for Ligo's character is a source of competitive chagrin, the odds-on favourite being the iconic British scientist, A. G. O.

That's a big bad guy, mass-market Pixar flick stretching children—and adults—what's so chief is it's keeping with the spaghetti spirit of the movie. Certainly the movie's market is half little fish in the audience's culinary sophistication: they spell out the movie's title phonetically ("Rara-too me") on its poster. And though critics like Frank Squire want to see Rancoulous as "a defence of deconstruction, a deconstructionist poster," the movie

often a deliciously moist salad of precious food snatched and hastily consumed. The critic Ego accuses his harsher critics for not being "noting" that simply striving for art is more difficult, more courageous, more reliable than the efforts of the best artists. That revelation comes after noting the fabulous rice dish conceived by Remy, which wasn't the traditional Provencal stew as a subtitle, elegant version of a vegetable braise, a Turkish dish made with similar ingredients. But it's not the best it's happened to or spicing of the vegetables here, it's that it summons a taste memory from his childhood. Still, that wasn't atop golems in the audience from salvaging for the recipe. Or from the hard ones among those longing that it can be found in *1978: The French Laundry Cookbook*, on page 127.



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THE VICAR OF CHRIST and the Antichrist. Hitler feared making a martyr of the pope; Pius was wary of provoking a violent psychopath

Did Hitler try to kidnap the pope?

It was a Nazi plot that kept the pontiff from condemning the Holocaust, a new book argues

BY BRIAN KIRKHOFF • Did he do it that he could have done, that he should have done? Controversy over the conduct of Pope Pius XII during the Holocaust has raged for over 60 years. That's after sterling reputations for having done what he could behind the scenes for persecuted Jews in Vatican under constant attack in 1961, when Rafi Wollschlaeger's play *The Deputy* cast him as a publicly denounce the Nazi genocide in an anti-Semitic light. The bitter debate has never really stopped, fuelled by Pius's ongoing canonization process. By last March the man, who died in 1958, was only a small step removed from sainthood. Even then, Jewish and Catholic alike who might otherwise enthusiastically accept papal promises to open the Vatican's doors to the world, were wary of provoking a violent psychopath.

The scandal? It occurred when the fall of Pius XII's reign ended the last battle between the two sides in the summer of 1941. Hitler sent German troops into Rome and ordered SS Gen. Karl Wolff to kidnap Pius, but the night—under his own window—in one German diplomat's words—of Pius being rounded up for Auschwitz finally drew the pope to open protest. It's worth noting the threat was far beyond the personal—Wolff's orders included executing the papal cook and torturing the Vatican. According to Kir-

khoth, who had extensive conversations with Wolff before the general's death in 1966, and with others who knew of the plot, Wolff had no desire to stick his hands in a pope's waist by laying violent hands on a pope. Instead, he made his mission plain to Vatican officials, and relied on the mere threat of it to force release, while using that release to convince Hitler no further action was required.

Despite Kirchoff's insistence that the kidnapping was a vital factor in Pius's decision, it's difficult to evaluate its importance. In the event, Pius never did directly denounce the Holocaust, but he and his city escaped the war largely unscathed, with Rome's monuments and churches (and the papal summer home of Castel Gandolfo) spared by Jewish refugees. Six decades later, the annual year Reich's history, and the Roman Catholic Church is a going concern.

That leads directly to the other core issue in the debate: did Pius have an obligation to speak out, whatever the consequences to him self or his flock? Pius has two jobs, according to historian John Sanborn, author of *Pius XII and the Holocaust*: their ancient responsibility of caring for the Church and its role as "the popular mind"—offering a moral conscience for mankind. But the second role, Sanborn says, is a modern development. "Pius would scarcely have recognized it, and it certainly wouldn't have been his priority. And it wasn't possible, under the constraints of the war, to have done both."

FINALLY, A BOOK ABOUT ... 10 CRUCIAL DECISIONS

Ken Kirchoff, perhaps the best Hitler biographer alive, considers key Second World War issues in *10 Crucial Decisions* (Penguin). 320 pages, made between May 1940 and December 1941, running from the British war cabinet refusing to negotiate with Hitler after the fall of France, to Hitler finally ordering the final solution. Linked like dominoes, according to Kirchoff, these calls determined the course of the rest of the war—and of the six decades since.





THE BRISQEE that got executive producer John Brunton all riled up was one in which three Toronto singers were eliminated

Nothing more than an Idol threat?

Critics say blaming the singing competition's viewers for an anti-Toronto bias is 'desperate'

BY JAMIE J. WEINMAN • The executive producer of *Canadian Idol*, John Brunton, has come up with a novel way of promoting his show: attack the fans for their poor judgment. Earlier this month, Brunton put out a press release—the newswire, CTV, dubbed it as “Canadian Idol Alert!”—in which he fumed that “anti-Toronto bias” among viewers is causing many of the best contestants to be sent home early. Brunton, who lives in Toronto, was reacting to an episode where three contestants from Toronto were voted off. “Toronto lost half of its competitors in one night,” he said, “and 75 per cent of the eliminated contestants were from our city!”

Brunton reacted in his state of mind that he was not just speaking up out of local chauvinism, but out of a sense of fairness. “It should not be a disadvantage to be a Canadian Idol competitor from Toronto,” said Dave Wild, who runs the Canadian TV news site TV 53.com, says that Brunton’s statement is “absurd.” For arguing Torontoans to support their own, this implies that voting “should be based on a civic pride instead of merit.” She also takes issue with Brunton’s belief that Toronto isn’t getting enough contestants in the mix. “Toronto was left with ‘only’ three of the top 10 spots, which, to get readily understood about it, is pretty much exactly in line with its population in relation to the rest of Canada.”

Canadian Idol isn’t the first *Idol* show whose voters have been accused of playing favorites. For the first five years of *American Idol*, every grand prize winner was from the American South (Texas, Tennessee, Alabama), leading to accusations that the show should really be named *Confederate Idol*. When American Idol’s Justin Guarini won the 2007 competition, a

was considered noteworthy that Southerners had finally failed to deliver the prize to a good ol’ boy or girl.

But unlike Brunton, the producers of *American Idol* haven’t complained that their local people (Californians) aren’t winning. And though their boys and girls don’t win on *American Idol*, people from big U.S. cities still watch the show. That’s not the case in Canada. While *Canadian Idol* does well in some areas, it has struggled to find an audience in Toronto, and is equally unpopular in other big cities like Vancouver and Montreal. Brunton even attacked the city in his press release, lamenting the fact that “Toronto is not paying attention” to his show.

“He’s one of those people who think that Brunton’s complaint was aimed at” boosting city pride in an obvious attempt to “boost ratings.” All that was accomplished, she says, is that “Brunton made himself and the show look ridiculous and desperate.”

Even assuming that it is unfair for Toronto voters to lose all their votes, it’s not as if Torontoans couldn’t change that. Newfoundland, where *Canadian Idol* ratings are reportedly higher than in Ontario or Quebec, consistently has its local contestants into the top five. If Torontoans liked *Canadian Idol* enough to watch it as much as other cities, Toronto contestants would be winning.

The other thing it’s been missed in this controversy is that whatever biases may exist in the *Idol* voting, it really isn’t any more biased than any other democratic system. The voting patterns are similar to those in identical locations. In the U.S., the “Solid South” has swung presidential elections to such candidates as Lyndon Johnson and George W. Bush, just as it swung *Idol* elections to Kelly Clarkson and Rachel McAdams. In Canada, Stephen Harper became Prime Minister even though his Conservative party couldn’t pick up seats in Toronto and other cities that don’t watch *Canadian Idol*. If people outside the big cities can pick who runs the country, why shouldn’t they decide who gets to stand on the stage with Ben Maltman?

In any case, even if the vote were taken away from the people—if *Canadian Idol* became a dictatorship, in other words—it might not make much difference. Around the same time that it released Brunton’s statement, CTV put out another press release, stating the *Canadian Idol* judges had been asked which contestants they would have eliminated. It turned out that these respected experts—including Sam Jordan, creator of the song *Plasma Drive*—agreed with the results of the fan voting: they would have eliminated the same people the fans did. Despite Brunton’s statement, it could be that people are being sent home not because they’re from Toronto, but because nobody thinks they’re very good. ■



ACCORDING TO TV GEORGE W. BUSH
“At the Mexican border, three illegal aliens were discovered under the hood of a truck, crouched around the engine. When President Bush heard about it, he said, ‘Yes, that was wrong. We don’t call them illegals anymore. They’re Native Americans.’” —Joy Lenz
“President Bush hosted a town meeting-style event in Cleveland. During the event, Bush discussed strategies for getting out of Iraq and strategies for getting out of Cleveland.” —Comedian O’Brien

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THE DAY THE MUSIC DIED: Internationally acclaimed artists rallied around the club's owners to save the 'magical' Rio de Janeiro scene

The condominium that killed jazz

Legendary Brazilian jazz club Mistura Fina was beloved by the world's finest musicians

BY ISRAEL VINCENT • For nearly 30 years, Rio de Janeiro's *Mistura Fina* was one of the most important jazz clubs in the Americas. Everyone from Brazil's best Lusa and Zulu Lobo to Canada's Diana Krall and Finnish composer Michel Legrand made a point of playing there when they were in the region. It was also a great haunt for legendary bossa nova composer Antonio Carlos Jobim before his death in 1994. But no more. In April, the club's owners lost a two-year legal battle with a local condominium developer. And last month, *Mistura Fina*—which means “fine mix” in Portuguese—was demolished, as a wave of sadness and angry protests spread through the jazz world.

Internationally acclaimed musicians had rallied around the club's owners in a final attempt to save what they said was one of the world's best venues for serious jazz. “There are certain magical places in the human past, many that should never be touched, modified, or destroyed for whatever commercial or financial reason,” said Legrand, who played the Rio venue to New York's Carnegie Hall. “*Mistura Fina*, the legendary jazz club, is one of those places.”

Lusa, the Grammy Award-winning Brazilian composer/pianist who has written songs for Ella Fitzgerald and Quincy Jones, called the venue's demise a slap in the face to jazz around the world. “The closing of *Mistura Fina* is one more blow in the gradual process of the extermination of jazz in its birthplace and around the world,” he said. “I came from Europe, where it is currently on the rise. In New York, Juanita Ross-Carter, another club regular, said in an interview with Machado that, “It was a very sad day when the news was heard that the club *Mistura Fina* in Rio

was closing. I couldn't not bringable to share music with wonderful friends, enjoying the fantastic food served there, and the warmth of the musically appreciative audience.” It was Lusa, a New York-based Brazilian jazz vocalist and pianist, who launched the news. “I have lived in New York for 35 years, and I work around the world,” she said, “but I love playing at *Mistura Fina*.”

Most of the world-renowned musicians who played at the club used the stage was in the Brazilian audience. They often played to packed houses of nearly 500 devoted fans. In 1995, during his first concert at the club, guitarist and vocalist John Pizzarelli looked down in tears in the middle of his arrangement of John's The Girl From Ipanema after the entire audience started to sing along to the lyrics. “It was an unforgettable evening,” recalled Pedro Paulo Machado, a former architect who opened *Mistura Fina* nearly 28 years ago. “There is a great jazz spirit in this city, and I think the musicians really felt it when they played at *Mistura*. A few years ago, Ross-Carter was asked in an interview what his favorite club was in the United States. He said he didn't have one, and that the best club he ever played at was *Mistura Fina*.”

During the legal battle with the condominium developers, Machado received a great deal of support from both performers and

patrons, who supplied statements used in court. Despite warnings offered to play for free in order to raise awareness of the club's plight internationally, “It is regrettable that an establishment of this nature has to be closed without offer of relaxation to long music fans,” said Wernick in an email interview with Machado. “I am so sorry that more passion and affection for this establishment was not shown.” But, in the end, the large two-story house that had been the club's home, overlooking the waters of the Lagoa Rodrigo de Freitas, was demolished last month. Machado says he is currently looking for another venue, but he doubts he will find a place with the same magical view of Rio. Construction has already begun on the condominiums that will take the club's place.

“You can put your great condos on top of each other, but think of all the love and happiness that is lost around Rio with no place to gather,” said Pizzarelli in an interview from New York, adding that he cried when he saw the photograph of the demolition site with a rainbow emerging from the spot where *Mistura Fina* used to stand. “The purpose of the club with the rainbow coming out of it made me cry for the feeling of music and happiness that was clearly there and always will be,” he said. “It was such an honor to share my music and Rio's music at *Mistura Fina*. I made many friends at that demolished spot and the rainbow reminded me of that, and I shall never forget it.”



SHASHING PUMPKINS... HAS SOMETHING TO SAY
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AUDIENCES AT CRACOW'S Jewish Culture Festival, so quiet during performances, so animated after, discourage cynicism

The music beyond the cemetery

The annual cultural festival at Cracow is bringing Poland's Jewish past back to life

BY PAUL WELLS

Michael Wix is a 45-year-old expert in Yiddish, author, translator, raconteur, comedian, born in Leithbridge, now living in Toronto. On a recent Sunday afternoon, he was delivering one of his popular and ardent talks on the history of Yiddish. "Yiddish culture and bad food are almost inseparable," he said. "Wix has published a book called *From the Kitchen*, in which he explains how a word that means separating or pushing came to mean complaining constantly—complaining for more, in fact, that a given situation warrants."

The link between the two concepts is indisputable, he said, and some of us were uncertain of his gastronomical effect. I would go into detail. He did. It was a mild chat. But then Wix's audience was attentive while he spoke and leaned up later to chat with him, for one of his career he didn't get a lot of laughs. This study had something to do with the verse Wix was speaking in the *Kugel* synagogue, founded in 1643 on Miłkowska Street in Cracow. Poland. In 1930, Miłkowska Street was in the midst of one of the largest Jewish communities in Europe. More than 60,000 Jews lived in Cracow 80 years later barely 6,000 survived. Most had been murdered—in a process of steadily escalating efficiency and horror, 70 km down the road at Auschwitz.

There is much saying at the outset because it never leaves a visitor's mind for long during the Jewish Cultural Festival in Cracow, whose 10th edition was earlier this summer. For 10 days, Cracow's historic Kazimierz district becomes a scene of music, culture and tourism. It is almost always great fun. There are museum exhibits, neighborhood

tour, workshops in everything from Yiddish to a form of Jewish dance music called *kup-hupkele*. There is music morning and night from klezmer bands and great Israeli covers. Artists and audiences mingle in the restaurants and clubs that now fill the neighborhood. The festival has become central to summer tourism in Cracow, which this year marks the 75th anniversary of its founding. Even more spectacularly, it has driven a commercial and cultural renaissance in the Kazimierz district, whose rue from tannakh's ghost town to the hub of Cracow's culture and nightlife has continued almost exactly with the festival's 30-year history.

The link between the two concepts is indisputable, he said, and some of us were uncertain of his gastronomical effect. I would go into detail. He did. It was a mild chat. But then Wix's audience was attentive while he spoke and leaned up later to chat with him, for one of his career he didn't get a lot of laughs. This study had something to do with the verse Wix was speaking in the *Kugel* synagogue, founded in 1643 on Miłkowska Street in Cracow. Poland. In 1930, Miłkowska Street was in the midst of one of the largest Jewish communities in Europe. More than 60,000 Jews lived in Cracow 80 years later barely 6,000 survived. Most had been murdered—in a process of steadily escalating efficiency and horror, 70 km down the road at Auschwitz.

There are Jewish cultural festivals all over the world and Wix makes the point that a Jewish festival in Cracow? "Lure! It's a good word," he describes his situation, he says. "I mean, I know the attitude of a lot of people was, 'hey, they couldn't wait to get rid of us and now?'"

But the audience, so quiet during performances, so animated after, discourage cynicism. So does the festival staff, not

Jewish as a rule, unfailingly young and often with wit. "These guys, I think they're pretty nice," Wix said.

"This is happening twice or three generations after the Holocaust, and I think it's the younger generation that has a new desire to understand it and come to terms with it," said Iwona, who leads a Toronto band called *Beyond the Pale*. The band played seventies in this year's festival, including a closing rooftop concert in front of thousands of people. "I've never felt anything like welcome here."

Sure, but it is a challenge having fun at a



Jewish festival in Cracow? "Yes. Absolutely. Sure and. Beyond all the usual pompous of performing and being on the road," there's a pressure about being Jewish here. There's an ambivalence, something on the back of my head. It's better sweet. It's amazing to be here and yet it's not."

Not that there was anything resembling a meaningful spirit in the air. Every night at midnight, the action moved to *Michałowski*, a grand public near Nowy Square. Its nights are devoted with the participation of a much less literary—erotic films, stuffed with



OVER THE YEARS, says the festival's organizers, I've seen many people who were changed by being here. This is something mysterious.

and/or heads. In many of the rooms and hallways became the setting for informal klezmer jazz sessions and for schmoozing in a polyglot jumble of Polish, English, Yiddish, French and German.

"I absolutely understand the feeling of people who don't want to come to Poland," Malach said when I told him about some of



POST-WAR Jewish society in Cracow: the festival is reviving the once-thriving area

the artists' indignation. "But on the other hand, over 10 years, I've seen many people who had these feelings and who were changed by being here. And then a something very curious. This is something which has happened only here, when you meet a people who are friendly to you, who are interested in you culturally, who want to understand you more, who want to talk to you, who are open."

Malach may be the best example of the story he describes. He was raised in a Catholic ghetto in a town near Poland's eastern border. He was 15 before he learned that half his town's population used to be Jewish. He began to study Jewish culture and history, to study Yiddish. In 1989, during the last two years of Poland's Communist regime, he organized a modest Jewish cultural festival with a film and who had been an

ing Jewish film retrospectives in Cracow.

They chose Kazimierz for their venue. The choice was historically well but risky. The neighborhood had seen better days—had, in fact, nearly been wiped out. In 1916, King Casimir III "The Great" had founded the town, not just part of nearby Cracow. The location for Jews varied greatly over the centuries outside Kazimierz's walls, but inside, with Christian neighbors, they built a thriving community.

After the war, that human treasure was gone, and under Communism the streets and buildings decayed too, even more rapidly than in its preceding centuries. The Jewish population actually declined under political pressure during the 1950s and 1960s. In the early 1970s, much of Miłkowska Street was burned to the ground for a film shoot. Kazimierz became a red light district and not far from a ghost town. In 1986, activity at 10 per cent of the substance of Kazimierz was in good and very good condition, and about 30 per cent was in a state of complete disrepair or dilapidation," Monika A. Marzec wrote in "Kazimierz: The Central European Experience of Urban Regeneration," an ambitious study for Cracow's International Cultural Centre. When the Communists regime collapsed in 1989, the neighborhood had no tourist accommodation at all. No tourist would think to come.

But in 1988, Malach decided to make his one-of-Jewish festival a renaissance. The festival did not erase Kazimierz's rebirth, but it gave developers and promoters a reason to enter the district and a focus for their

activity. By 1991, there were two tourist hotels in the district. By 1994, there were 23. The number of restaurants has grown sevenfold. Kazimierz is now at least as lively and attractive as the traditional tourist zone around Cracow's Grand Square, one kilometer away, compared to the lively Jewish quarters. The nearby commercial district of Starego Miasta Street, with its dusty mid-century architecture and its random shops, looks positively lively. Kazimierz once had to catch up to the rest of Cracow. Now it has passed it.

But of course it is still interest to call it the Jewish quarter because there are almost no Jews left to inhabit it. From the lovingly refurbished synagogues to the shops made to look like they might have in 1930, there are plenty of reminders here of what was. Still, Malach warns that, in becoming one of central Europe's nightlife and party headquarters, Kazimierz is losing its uniqueness for the past.

Mostly, though, he is proud of what he and the festival's artists have built. "I strongly believe that by the moment of a Jewish Cultural Festival, we are changing history. We are focusing on today because our future depends on today. We have a choice to live only in the memory, or to learn how to live again."

The Kaddish is the Jewish prayer of mourning. "Show us one word of Kaddish that speaks of death," Malach said defiantly. "There is no word of death in Kaddish—but this is a prayer of mourning." So what is a Jewish cultural festival in the largest Jewish city in Europe? This is Kaddish. ■



PERFORMANCE OF THE WEEK... THE BERLIN WALL

London artist Mark Gable is recreating the death of Peter Fichtel's teenager who tried to run the Berlin Wall in 1982 by escape to the West. Gable has rebuilt a section of the infamous concrete barrier at a secret location and next morning will bring his audience to the site where actors will reenact Fichtel's death. He was shot by East German guards and left to bleed to death over the course of an hour. "It will be hard to watch," Gable warns.

HARRY AVIAK

1962-2007

A renowned snowmobile 'skipper,' he struggled in life, but felt he'd finally turned a corner

Herry Aviak was born on June 12, 1962, near Cambridge Bay, Nunavut, about 850 km north of Yellowknife. N.W.T. to John Graham and Ada Ojima. At the time of his birth, his parents were travelling from Alaska, N.W.T., to Kugluktuk, Nunavut, camping and hunting as they went. As a baby, Harry was adopted by his maternal grandmother, May Mugaia, and her partner, David Burnhardt. They raised him in Kugluktuk, a hamlet 575 km north of Yellowknife that now has a population of about 1,100.

Harry learned to hunt as a young age with May, who would take him out onto the land and teach him to set squirrel and fox traps. She emphasized the importance of respecting nature and wildlife, a principle Harry strongly believed in. He learned to hunt other animals, from voles to caribou. As a child, Harry excelled at school, and English was his favourite subject. He was playful, says Mona, his wife, who grew up in the same community. "During the summer, he would draw mud balls as my mother's window."

Harry was abused as a child, Mona says, although she will not say how or by whom. He began to sit up at a young age, and when his grandmother could no longer control him, Harry was placed in foster care. He bounced from home to home, moving from Cambridge Bay to Inuvik, to Yellowknife and back to Kugluktuk. As a teenager, Harry began a lifelong struggle with alcoholism. He sometimes got in trouble with the law, but he did find work as a mechanic and a welder. And he always found solace in the outdoors, where he would love to ride his snowmobile. He became accomplished at water skipping, an informal sport in which drivers race their snowmobiles over open water, trying to keep the throttle cranked wide open while skimming far beyond the machines to push the skip up. Water skipping is hazardous, though not often fatal, deaths in the area are almost unheard of.

Harry and Mona became the only in 1981 when Mona went to work for Acme Coast Enterprises, a general contractor in Kugluktuk, where Harry did odd jobs. "I was raised by my mother to look at how someone is inside," Mona says. "I just accepted him, and he learned to trust me." The two moved in together a year later and had their first child, Jenise, in 1984. "Harry said he was so proud, he felt like his chest would explode," Mona remembers. Soon after, Harry began

to volunteer at Kugluktuk's drop-in centre. Harry liked being a shoulder to lean on. "He said one day he wouldn't mind being a social worker," Mona says. "I said, 'You need to heal yourself up before you can help others.'"

The Aviahs had a second daughter, Gail, two years after Jenise was born. But because they had little money, they put her up for adoption. "Harry was against giving her up," Mona says. "It was very hard on him." Harry and Mona married on July 22, 1989. They also had a son, Kyle, now 18, and a daughter, Carmen, 14.

Kyle, a lacrosse player who has competed across North America, says it was his father who first encouraged him to sports. Harry also taught his children to hunt. Camping at night, "We'd talk about anything," Kyle recalls. "We'd talk about the animals he knew. Or he'd tell me about when I was a baby." In his community, Harry was a well-respected hunter and mechanic, as well as being famous among the locals for his skills at water skipping.

Nicholson continued to plague Harry, and he was somewhat absent to his family. About 10 years ago, Harry spent months getting treatment in Sudbury. "He said he was tired of that kind of life. He knew there was a better way," Mona says. Ada Kyle, "We talked as a family. We were there for each other." Two years ago, Harry began to attend Alice

holics Anonymous and never drank again.

On Jan. 21, 2006, Jenise gave birth to Harry and Mona's first grandchild, Harnayaw, named in their honour. "When he became a grandfather, he finally found a purpose in life," Mona says. In April, when Jenise gave birth again, Harry and Mona decided to adopt the baby girl named Kym, recognizing that Jenise would have trouble raising two young children alone.

On June 10, Harry went to Hare Lake, about five kilometres south of Kugluktuk, to watch his friends water skip. He said he was retiring from water skipping for good. Still, the next day when Harry and Mona went back to the lake for an annual Canada day celebration, he decided to give his snowmobile one last run. Shortly after 6 p.m., Harry set off across the cold waters of the lake (inevitably, his snowmobile stalled and sank). Harry drowned. He was 45.

BY KATE LUNAG



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